
EXHIBIT 40.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

ANN OTSUKA, an individual,
et al.,

CERTIFIED COPY

Plaintiffs,

vs.

No. C-07-02780-SI

POLO RALPH LAUREN CORPORATION,
et al.,

Defendants.

Videotaped Deposition of

JANIS KEEFE

Monday, March 17, 2008

Reported by:
IRIS MEINKE-SMITH, RMR/CRR
CSR No. 3798
Job No. 18235LR



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1 A. No. We had our own lockers with -- you
2 know, you couldn't go to your locker during the
3 course of employment, so they didn't question
4 anything.

01:38:38 5 Q. So let's talk about the loss prevention
6 search at Polo Ralph Lauren. The totality of your
7 employment was at the San Francisco store. You did
8 not work in any other stores, right?

9 A. Yes. Correct.

01:38:53 10 Q. And is it consistent with your recollection
11 that the San Francisco store only had one exit that
12 employees were permitted to leave the store either

13 for their lunch or at the conclusion of their shift?

14 A. Yes.

01:39:11 15 Q. And that was at the rear of the building --
16 the rear of the property; is that correct?

17 A. Yes.

18 Q. And it was on the ground floor?

19 A. Yes.

01:39:23 20 Q. And it was -- at least the selling area that
21 was closest to it would have been the men's
22 department?

23 A. Men's clothing.

24 Q. And so can you explain to me, as best you
01:39:33 25 recall from the days you worked there, the process

1 that you took to clock out, loss prevention search,
2 what -- the steps you took in that process?

3 A. Okay. Clock out the end of your shift. And
4 then you would go and -- well, a manager -- you would
01:39:54 5 tell a manager that, you know, it's the end of your
6 shift. You would clock out. And then you would have
7 to go get your things from your locker and page a
8 manager or sometimes wait for a manager to relieve
9 you for your shift, for your -- for the day.

01:40:20 10 Q. And in terms of clocking out, as a general
11 rule, what work station or what computer would you
12 use to clock out?

13 A. The one closest to the door.

14 Q. And that was located where?

01:40:39 15 A. The Men's Clothing register.

16 Q. Okay. And would you -- had you ever clocked
17 out using the computer terminal either in Theresa
18 Cruz's or Kristi Mogel's office?

19 A. On a few occasions, yeah.

01:41:01 20 Q. And those occasions, the reason that you
21 would use those other terminals would generally be
22 what?

23 A. Someone was using the register for -- to
24 help a client.

01:41:11 25 Q. So you would not clock out at a register

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1 where someone was continuing to sell merchandise to a
2 customer?

3 A. Right. Right. You -- then you would have
4 to get paid for that time while you're waiting, and
01:41:23 5 you're just waiting there.

6 Q. So normally --

7 A. Or you wanted to go home and it was time to
8 go and there was somebody at the register for, like,
9 way too long, and so you'd have to clock out where it
01:41:34 10 was available.

11 Q. And the alternate available would other --
12 might be upstairs, but your path was either --

13 A. Right.

14 Q. -- to use the one in --

01:41:41 15 A. Well, if I didn't use --

16 MR. KITCHIN: Let him finish his question.

17 THE WITNESS: Okay. Go ahead. Sorry.

18 Q. BY MR. GOINES: If I understand correctly,
19 normally you would try and use the one in the Men's
01:41:51 20 Clothing Department, correct?

21 A. The one in my department, I would try to use
22 that one.

23 Q. So you'd try and use it in the Men's Sport?

24 A. Uh-huh. Yes.

01:41:59 25 Q. And that -- and which floor was that on?

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1 A. I don't know how it's considered, if it's
2 the first floor or the second floor.

3 Q. Would that be the floor that I --

4 A. The entrance.

01:42:10 5 Q. Off of Post Street?

6 A. Right.

7 Q. Okay.

8 A. That's the main entrance.

9 Q. So normally you would try and use the
01:42:16 10 register in that department?

11 A. Right.

12 Q. And if that register were not available,

13 then your alternate would have been what?

14 A. Men's Clothing.

01:42:28 15 Q. And what were the types or what set of
16 circumstances would arise where you were not able to
17 clock out in the register in the department in which
18 you worked, Men's Sport?

19 A. Someone using the register, both registers.
01:42:45 20 There was two registers.

21 Q. And so the alternate path would be to use
22 the one that would be downstairs, correct?

23 A. Right.

24 Q. And then if that one weren't available, then
01:42:55 25 you would try and use the one either in Theresa's or

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1 Kristi's office?

2 A. Well, sometimes I was told to clock out
3 there because I would tell them that there was no
4 register to clock out in.

01:43:11 5 Q. And then would your normal practice be to
6 call -- well, strike that.

7 would your normal practice be to call a
8 manager before you clocked out or after you clocked
9 out to be allowed to exit through the employee exit
01:43:32 10 at the rear of the property?

11 A. After we clocked out.

12 Q. And what process or procedure did you use to

13 contact someone who was authorized to perform the
14 loss prevention search?

01:43:48 15 A. If there was a manager there to relieve you
16 for your shift, then they were usually aware that
17 there was people at the door waiting. If there was
18 no one at the door, or a manager that wasn't there
19 when your shift was over, then you would have to page
01:44:07 20 a manager using the phone, the intercom.

21 Q. So on occasion -- I'm going to ask for some
22 quantification, but let's ignore the quantification
23 for a moment.

24 On occasions a manager would be at the door
01:44:29 25 doing loss prevention searches for others such as

1 yourself departing the store at the end of the day?

2 A. On some occasions.

3 Q. So I take it what you say is on the majority
4 of occasions you needed to page a manager to conduct
01:44:46 5 this search before you departed?

6 A. Yes.

7 Q. And let me -- I want to come back to this in
8 a minute, but I want to go to departing the store for
9 lunch breaks.

01:45:25 10 would you use the same procedure to depart
11 the store for lunch breaks as you used to exit at the
12 end of the day?

13 You would clock out, go to the employee
14 exit, and either a manager there or call a manager,
01:45:40 15 and then he or she would do the search and let you
16 out?

17 A. Yes.

18 Q. Okay. In response to a question a minute
19 ago you indicated that -- I think the phrase you
01:46:08 20 used, on some occasions a manager was there to

21 perform the loss prevention search after I clocked
22 out, walked to the door and he or she performed a
23 loss prevention search on exit, but you said on most
24 occasions I had to page someone. Is that -- am I
01:46:24 25 getting that right?

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1 A. Yes.

2 Q. Okay. And are you able to give me your best
3 estimate of the amount of times that you exited the
4 store at the end of your shift where someone was not
01:46:42 5 -- a manager or a person authorized to perform this
6 inspection was not at the door to facilitate a quick
7 and easy exit from the store?

8 A. You mean like a number?

9 Q. Here is what I'm trying to get at. You
01:46:59 10 indicated that some of the times a manager or person
11 authorized to do the search was at the door, close by
12 the door and I'd clock out, do the search and I'd

13 leave with little or no wait time. Fair statement?

14 A. Yes.

01:47:14 15 Q. Okay. What percentage of the time that you
16 worked there was it -- was there literally little or
17 no wait time from clock-out to the conducting the
18 loss prevention search?

19 A. Percentagewise?

01:47:27 20 Q. If you can give me your best estimate.

21 A. I have to think about that for a second.
22 I'm sorry.

23 About -- from a hundred percent, you mean,
24 like how many --

01:47:52 25 Q. Right.

1 A. I would say about 15 percent of the time
2 there was a manager readily available.

3 Q. And --

4 A. Throughout my course of employment.

01:48:01 5 Q. Okay. And that would mean you would clock
6 out, someone was readily available, do loss
7 prevention search, go on to your business?

8 A. Right.

9 Q. Now, that means about 85 percent of the time
01:48:14 10 there was a lag between your clocking out and your --
11 someone being available to conduct a loss prevention
12 search, right?

13 A. Yes.

14 Q. Okay. And on those occasions when you had
01:48:34 15 to conduct -- so on those other occasions when a
16 manager wasn't readily available, I take it you had
17 to page someone to come down or come over to perform
18 the search and allow you to exit the store?

19 A. Yes.

01:48:49 20 Q. Okay. And was there -- again, I'm trying to
21 generalize a little bit. I try to be weary of that.

22 But was there a person who you normally
23 looked to to page to conduct the loss prevention
24 search when you were departing at the end of the day?

01:49:08 25 A. Not a particular manager. It was just

1 "Manager to the back door."

2 Q. Okay.

3 A. Basically.

4 Q. So you would get on the phone system and

01:49:17 5 say, "Manager to the back door. We want to leave."

6 A. Yes.

7 Q. Okay.

8 A. Or just "Manager to the back door." Not "We
9 want to leave."

01:49:24 10 Q. They would understand.

11 A. Yeah, you weren't allowed to say that much.

12 Q. And in -- was there an average time on those

13 85 percent of the time occasions that you had to wait
14 for a manager or someone authorized to perform the
01:49:48 15 loss prevention search to come down to the back door,
16 conduct a search and allow you to depart for the day?

17 A. I would say an average of about 15 to
18 20 minutes.

19 Q. So as to those 85 percent of the time best
01:50:10 20 estimate, you would wait an average of 15 to

21 20 minutes for a manager to respond and conduct the
22 bag and loss prevention search?

23 A. Yes.

24 Q. And did you keep any records or materials or
01:50:34 25 information that would support the statement that on

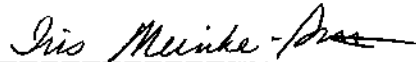
110

REPORTER'S CERTIFICATE

I certify that the foregoing proceedings in the within-entitled cause were reported at the time and place therein named; that said proceedings were reported by me, a duly Certified Shorthand Reporter of the State of California authorized to administer oaths and affirmations, and were thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for either or any of the parties to said cause of action, nor in any way interested in the ~~outcome of the cause named in said cause of action.~~

IN WITNESS WHEREOF, I have hereunto set my hand this 1st day of April, 2008.



IRIS MEINKE-SMITH, CA CSR No.3798
Registered Merit Reporter
Certified Realtime Reporter

EXHIBIT 41.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

ANN OTSUKA, an individual,
et al.,

CERTIFIED COPY

Plaintiffs,

vs.

No. C-07-02780-SI

POLO RALPH LAUREN CORPORATION,
et al.,

Defendants.

Videotaped Deposition of

RENEE DAVIS

wednesday, March 19, 2008

Reported by:
IRIS MEINKE-SMITH, RMR/CRR
CSR No. 3798
Job No. 18236LR



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1 The occasions when you waited to be let out
2 of the store were when you worked the closing shift;
3 is that correct?

4 A. Not necessarily. Just any time you leave
11:58:26 5 the store, if I perhaps got off at 5 o'clock, you
6 know, sometimes -- because they have shuttle buses
7 that come. And if it's busy, I might have clocked
8 out and gotten somebody's attention to leave. But,
9 you know, a customer may have needed assistance with
11:58:41 10 something else, then I had to wait until somebody
11 could get to me to do the loss prevention search.

12 Q. Let's talk about the procedure and the
13 process and then talk about how it impacted you.

14 When you concluded your shift, tell me what
11:59:01 15 practice or policy -- what practice you followed in
16 terms of clocking out.

17 A. When it was time for me to leave, I would
18 bring it to somebody's attention that I was due to
19 get off.

11:59:12 20 Q. okay.

21 A. I was told to go clock out, which I did.
22 I'd gather my possessions or purchases, whatever I
23 had that particular day, and we'd head for the front
24 door. You know, say, "Hey, I'm ready."

11:59:26 25 And if somebody was available, you know,

1 they would come and, you know, do the little search
2 and check your coat and what have you. And then if
3 not, then I basically just had to stand there and
4 wait until somebody became available.

11:59:44 5 Q. And so if I understand correctly -- let's
6 just make an assumption for purposes of my question
7 that your shift ended at 5:00.

8 A. Okay.

9 Q. You wouldn't clock out until you notified
11:59:54 10 someone, "Hey, I'm going off duty," or "It's the end
11 of my shift," so you might clock out at 5:05 or 5:10,
12 based on that type of circumstance; is that correct?

13 A. Yes, I would usually say, "It's 5 o'clock.
14 Do you need me to stay any longer?" If they would
12:00:10 15 say, "No," "Okay, I'm clocking out." Then I would
16 say, "Okay," go to my locker and get my things, wave
17 at somebody again, "I'm ready," go to the door, look
18 to see if there's anybody following me. Sometimes
19 there were, you know, sometimes there wasn't.

12:00:23 20 Q. Following you, meaning a manager or a person
21 who could check you out?

22 A. Yes. Because they escort you to the door
23 and, you know, do their little search and that was
24 it.

12:00:37 25 Q. And so you indicated -- and what I'm trying

REPORTER'S CERTIFICATE

I certify that the foregoing proceedings in the within-entitled cause were reported at the time and place therein named; that said proceedings were reported by me, a duly certified Shorthand Reporter of the State of California authorized to administer oaths and affirmations, and were thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for either or any of the parties to said cause of action, nor in any way interested in the outcome of the cause named in said cause of action.

IN WITNESS WHEREOF, I have hereunto set my hand this 4th day of April, 2008.


IRIS MEINKE-SMITH, CA CSR No.3798
Registered Merit Reporter
Certified Realtime Reporter

EXHIBIT 42.

Golden Gate Reporting

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA
3 SAN FRANCISCO DIVISION

4 -----X
5 ANN OTSUKA, an Individual; JANIS
6 KEEFFE, an individual, CORINNE PHIPPS,
7 an individual, and JUSTIN KISER,
8 an individual, individually and
9 on behalf of all others similarly
10 situated,

11 Plaintiffs.

12 v.

No. C-07-02780-SI

13 POLO RALPH LAUREN CORPORATION,
14 a Delaware Corporation, POLO
15 RETAIL, LLC, a Delaware Corporation,
16 POLO RALPH LAUREN CORPORATION, a
17 Delaware Corporation doing business
18 in California as POLO RETAIL CORP.,
19 FASHIONS OUTLET OF AMERICA, INC., a
20 Delaware Corporation, and DOES -500,
21 inclusive,

22 Defendants.

23 -----X

24 January 18, 2008
25 New York, New York
Time: 9:51 a.m.
Volume 1, Pages 84

26 Deposition of BETH FLYNN, taken on behalf
27 of the Plaintiffs, at Greenberg Traurig, Met Life
28 Building, 200 Park Avenue, New York, New York, commencing
29 at 9:51 a.m., January 18, 2008, before Anthony
30 Armstrong, a Notary Public and Certified Shorthand
31 Reporter of the State of New York.

Page 1

Golden Gate Reporting

<p>1 Polo?</p> <p>2 A. Yes. It's an application. It's a</p> <p>3 software application that's used by Polo.</p> <p>4 Q. Does the data that come through that</p> <p>5 system identify specific sales made by specific</p> <p>6 sales associates?</p> <p>7 A. Yes.</p> <p>8 Q. And that's a biweekly download from</p> <p>9 California?</p> <p>10 A. It's a biweekly download from the</p> <p>11 central system.</p> <p>12 Q. How often are those sales reported to</p> <p>13 the Pacific --</p> <p>14 A. Island Pacific.</p> <p>15 Q. -- Island Pacific system?</p> <p>16 A. It's a nightly process.</p> <p>17 Q. And do managers within the full price</p> <p>18 stores in California transmit that data at the</p> <p>19 end of the business day?</p> <p>20 A. It's a system. It processes. The</p> <p>21 manager doesn't have to push it.</p> <p>22 Q. Does that come through the point of</p> <p>23 sale system?</p> <p>24 A. Yes.</p> <p>25 Q. And do the point of sale system, the</p>	<p>1 sent from a California store to that system at</p> <p>2 the end of the business day?</p> <p>3 A. I'm not sure.</p> <p>4 Q. You understand what I'm asking --</p> <p>5 A. Yes.</p> <p>6 Q. -- is whether we could track how --</p> <p>7 at what time that data was sent to the system in</p> <p>8 New York or New Jersey?</p> <p>9 A. I'm not sure of the historical</p> <p>10 tracking for that.</p> <p>11 Q. Are you familiar with the timekeeping</p> <p>12 systems used in the full price retail stores in</p> <p>13 California?</p> <p>14 A. Yes.</p> <p>15 Q. What is that system called?</p> <p>16 A. They time keep inside the point of</p> <p>17 sale system, which is DataVantage. The POS is</p> <p>18 called Trade Wind.</p> <p>19 Q. Is the Trade Wind system also used</p> <p>20 today in factory outlet stores in California?</p> <p>21 A. Yes.</p> <p>22 Q. Are those systems capable of</p> <p>23 downloading data to some department here on the</p> <p>24 East Coast?</p> <p>25 A. Can you clarify?</p>
Page 22	Page 24
<p>1 cash registers, need to be closed down in order</p> <p>2 to transmit that data?</p> <p>3 A. Yes.</p> <p>4 Q. Do all of the cash registers within</p> <p>5 the store need to be shut down at the end of the</p> <p>6 business day to transmit that data?</p> <p>7 A. Yes.</p> <p>8 Q. Have you been in a California full</p> <p>9 price retail store when that process is going on?</p> <p>10 A. No.</p> <p>11 Q. How long does that process take from</p> <p>12 the time the cash registers are shut down until</p> <p>13 the process of providing the data to New York is</p> <p>14 completed?</p> <p>15 A. It depends upon the size of the</p> <p>16 store.</p> <p>17 Q. To your knowledge, is there a record</p> <p>18 maintained through any systems at Polo that</p> <p>19 memorize the time that data was sent from</p> <p>20 specific stores within California to the Island</p> <p>21 Pacific system?</p> <p>22 A. Can you repeat that question?</p> <p>23 Q. Yes. I'm wondering if the Island</p> <p>24 Pacific system or any other system can be</p> <p>25 analyzed to show the specific time that data was</p>	<p>1 Q. I'm wondering if the timekeeping</p> <p>2 records are similarly sent electronically to New</p> <p>3 York?</p> <p>4 A. Yes, they are.</p> <p>5 Q. And how often are those data sent to</p> <p>6 New York?</p> <p>7 A. It's nightly. And at the end of the</p> <p>8 week, there is a weekly close process.</p> <p>9 Q. Is the nightly process part of the</p> <p>10 process we were talking about earlier with the</p> <p>11 Island Pacific system?</p> <p>12 A. Not the same, but similar.</p> <p>13 Q. Can you describe the process that a</p> <p>14 manager in California would go through to send</p> <p>15 sales and timekeeping data to New York at the end</p> <p>16 of the business day?</p> <p>17 A. As the close -- the manager wouldn't</p> <p>18 send the data, but as part of the system at close</p> <p>19 process, they close out each of their registers,</p> <p>20 which is counting down the tills for it to</p> <p>21 balance out the reconciliation for each cash</p> <p>22 register. When all the people are ready to</p> <p>23 go they -- as people are leaving, they'll clock</p> <p>24 out and then they get ready to close out the</p> <p>25 store and they close. And the last piece of</p>
Page 23	Page 25

7 (Pages 22 to 25)

<p>1 closing is to clock out anyone who's in the store 2 who hasn't clocked out yet. 3 Q. To your knowledge, are there times 4 when the point of sale timekeeping systems have 5 all been shut down while sales associates are 6 still working within the store after the close of 7 business? 8 A. Yes. 9 Q. And are sales associates capable of 10 using the Trade Wind system to clock out when the 11 cash registers are shut down? 12 A. No. 13 Q. Do you know how their working hours 14 and the end of their working day is memorized by 15 Polo? 16 A. From my understanding, there is a 17 form that gets completed that the manager writes 18 down with the associate, the time of their 19 leaving, and then that gets entered. When they 20 open the POS, they do an adjustment to key in the 21 clock out time. 22 Q. You are familiar with a form that is 23 used in California for making adjustments to 24 time -- 25 A. My assumption is that is the form. I</p>	<p>1 A. Store ops. Evan Cohen. 2 Q. Okay. So Evan Cohen has indicated to 3 you at some point that stores in California are 4 using a form to help them memorize working hours 5 of employees? 6 A. Yes. 7 Q. When did he tell you that? 8 A. I have no idea on dates. I don't 9 even have a guess, to be honest. 10 Q. Can you tell me whether it was within 11 the last year? 12 A. It would have been a lot longer than 13 that. 14 Q. Have you ever been part of a 15 discussion or communication in which the process 16 of shutting the timekeeping systems and point of 17 sale systems down should be modified in some way 18 so that employees have an opportunity to clock 19 out themselves at the end of their working day? 20 A. Yes. 21 Q. Describe in general your 22 conversations or communications you have had 23 relating to that issue. 24 A. It was conversations on a way to 25 modify the POS to allow for clock-outs during</p>
Page 26	Page 28
<p>1 haven't seen the form myself. 2 Q. I'm going to show you what we have 3 previously marked as Exhibit 20. I just ask if 4 you have ever seen this form being used in the 5 California retail stores? 6 (Whereupon, Exhibit 20 was 7 previously marked for identification.) 8 ***** 9 A. No, I have not. 10 BY MR. KITCHIN: 11 Q. You haven't seen any kind of a form 12 used by managers in California to memorize 13 working hours, but you assume that a form is in 14 place? 15 A. Yes. 16 Q. And what do you base that assumption 17 on? 18 A. Process conversations. Business 19 process conversations. 20 Q. You have had conversations with 21 managers who've told you that they use a specific 22 form? 23 A. No. Not with managers, no. 24 Q. With whom have you had conversations 25 indicating --</p>	<p>1 close process. The system currently does not 2 allow it. 3 Q. With whom did you have a conversation 4 on that issue? 5 A. It would have been with our store ops 6 folks like an Evan Cohen and our IT partners for 7 POS. 8 Q. How long -- was it a single 9 conversation or communication, or multiple 10 communications? 11 A. I can't say it was a single. Might 12 have been more than, you know, one or two 13 conversations. But that's been quite a while 14 ago. 15 Q. Can you give me any kind of a 16 ballpark estimate? Was it more than a year ago, 17 two years ago? 18 A. It was definitely more than a year 19 ago, and it may have been more than two, but I'm 20 not sure on that point. 21 Q. Do you understand the impetus for 22 discussions relating to some kind of a 23 modification of the timekeeping system as you 24 discussed? 25 That's bad.</p>
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8 (Pages 26 to 29)

Golden Gate Reporting

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C E R T I F I C A T E

I, Anthony Armstrong, a Certified
Shorthand Reporter and Notary Public within
and for the State of New York, do hereby
certify:

That BETH FLYNN, the witness whose
testimony is hereinbefore set forth, was
duly sworn by me and that such testimony is
a true record of the testimony given by such
witness.

I further certify that I am not
related to any of the parties by blood or
marriage, and that I am in no way interested
in the outcome of this matter.


Anthony Armstrong

EXHIBIT 43.

1 IN THE UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA
3 SAN FRANCISCO DIVISION
4

5 ANN OTSUKA, an individual;)
6 JANIS KEEFE, an individual,)
7 CORINNE PHIPPS, an)
8 individual; and RENEE DAVIS,)
9 an individual; individually)
10 and on behalf of all others)
11 similarly situated,)
12 Plaintiffs,)

10 -vs-) No. C-07-02780-SI

11)
12 POLO RALPH LAUREN CORPORATION;))
13 a Delaware Corporation; POLO)
14 RETAIL, LLC., a Delaware)
15 Corporation, POLO RALPH LAUREN)
16 CORPORATION, a Delaware)
17 Corporation, doing business in)
18 California as POLO RETAIL)
19 CORP; FASHIONS OUTLET OF)
20 AMERICA, INC., a Delaware)
21 Corporation,)
22 Defendants.)
23)
24)
25)

19
20 The deposition of HARVEY RESNICK, called
21 by the Plaintiffs for examination, pursuant to
22 subpoena and pursuant to the Federal Rules of
23 Civil Procedure for the United States District
24 Courts pertaining to the taking of depositions,
25 taken before Cynthia J. Conforti, Certified
Shorthand Reporter, at Suite 2500, 77 West Wacker
Drive, Chicago, Illinois, commencing at the hour
of 10:09 a.m. on the 23rd day of April, A.D.,
2008.

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Golden Gate Reporting

<p>1 Q. Were you involved in scheduling sales 2 associates in your department? 3 A. Yes. 4 Q. And did your sales associates in your 5 department typically work a 40-hour or 6 40-hour-plus work week? 7 MR. GOINES: Objection, compound. 8 THE WITNESS: I think we scheduled them 9 for 40 hours. Somewhere between 35 and 40 hours 10 is a pretty normal retail schedule. 11 BY MR. KITCHIN: 12 Q. Did sales associates working at the San 13 Francisco Polo stores for the closing shift have a 14 set time where all sales associates were to finish 15 their day? 16 A. The day would end when the store closed, 17 and then the next -- it depended on. 18 Could be 15 minutes to an hour could be 19 spent recovering, folding merchandise, stacking 20 it, making the store ready actually for opening 21 the next day. 22 Q. Did you typically release your sales 23 associates at the end of the day at the same time 24 or were there instances where an individual needed 25 to stay to do something else while others in your</p>	<p>1 Q. Do you know if that process, that is, 2 releasing certain employees who have completed 3 their section and retaining others who were still 4 working on their section also happened in other 5 departments at the Polo store? 6 A. You know, I don't really know how other 7 managers did it. 8 I think just, trying to recall, often the 9 other areas were more quickly put back together, 10 and whoever was there was allowed to leave. 11 Usually the other areas would finish before the 12 men's areas. 13 Q. Was there any kind of policy in effect at 14 Polo when you worked there that required sales 15 associates at the end of the day to clock out at a 16 certain time? 17 MR. GOINES: Objection, vague, lack of 18 foundation. 19 THE WITNESS: Clocking out was a function 20 of when you were finished working you'd clock out, 21 leave the building. 22 BY MR. KITCHIN: 23 Q. Did you ever need to clock an employee in 24 or out for any reason? 25 A. I think on occasion if somebody forgot to</p>
Page 26	Page 28
<p>1 department left? 2 A. Well, sort of by area. When an area was 3 finished, when the recovery was finished and the 4 person was -- 5 MR. GOINES: I apologize. Did you say 6 recovery? 7 THE WITNESS: Yes, yes. 8 A retail term I guess. 9 BY MR. KITCHIN: 10 Q. Cleaning up the department. 11 A. Cleaning up. 12 MR. GOINES: Got you. 13 THE WITNESS: Making it ready for -- so if 14 there were three areas and three employees, they 15 each had to do their own area theoretically. 16 Depending at holiday times. 17 The men's, that first floor was always the 18 most difficult to clean up at the end of the day, 19 so we tried to make sure there were a lot of 20 people available. 21 BY MR. KITCHIN: 22 Q. So would it be accurate to say that some 23 people on certain days were released before other 24 people in your department were released? 25 A. Yes. Yes.</p>	<p>1 clock themselves in, it was something that could 2 be done, you know, so that they got paid 3 appropriately. Clocking them out was not 4 something I normally did. 5 Q. Would you describe in detail the process 6 you personally went through at the end of the 7 store day, that is, from the point that the 8 customer entrances are locked to the time that you 9 left the building what would you do? 10 A. Well, mainly was just to prepare the 11 selling area for the next day's business. That 12 really took up most of my time. 13 There was a store shutting-down process 14 that managers were supposed to participate in that 15 I rarely did because the demands of the floor were 16 so great and it just seemed to require so much of 17 the focus, so if there was another manager who, as 18 you area was finished earlier, I would typically, 19 you know, allow them or I shouldn't say allow. 20 I preferred that they took care of the 21 store shutdown so that they were available to do 22 it so that I could stay with my staff and finish 23 preparing our area for the next day. 24 Q. On occasion did you participate in what's 25 described as the closing?</p>
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8 (Pages 26 to 29)

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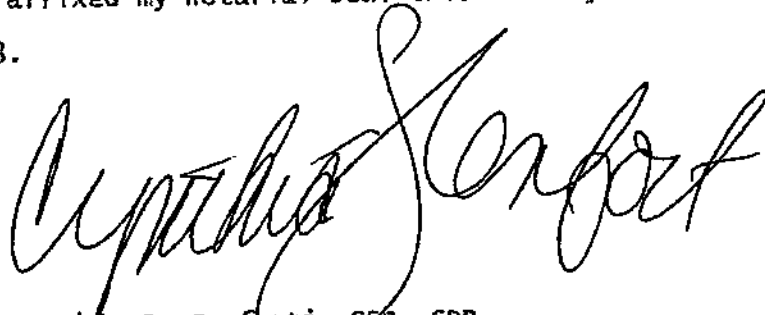
1 I further certify that the signature to the
2 foregoing deposition was not waived by counsel for
3 the respective parties.

4 I further certify that the taking of this
5 deposition was pursuant to subpoena, and that
6 there were present at the deposition the attorneys
7 hereinbefore mentioned.

8 I further certify that I am not counsel for
9 nor in any way related to the parties to this
10 suit, nor am I in any way interested in the
11 outcome thereof.

12 IN TESTIMONY WHEREOF: I have hereunto set my
13 hand and affixed my notarial seal this 7th day of
14 May, 2008.

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25



Cynthia J. Conforti, CSR, CRR

Notary Public, Cook County, Illinois

CSR License No. 084-003064

EXHIBIT 44.

Golden Gate Reporting

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA
3 SAN FRANCISCO DIVISION
4

5 ANN OTSUKA, an individual; JANIS No. C-07-02780-SI
6 KEEFE, an individual; CORINNE
7 PHIPPS, an individual; and
8 JUSTIN KISER, an individual;
9 individually and on behalf of
10 all others similarly situated,

11 Plaintiffs,
12 vs.

13 POLO RALPH LAUREN CORPORATION;
14 a Delaware Corporation; POLO
15 RETAIL, LLC, a Delaware Corporation;
16 POLO RALPH LAUREN CORPORATION, a
17 Delaware Corporation, doing business
18 in California as POLO RETAIL CORP;

19 FASHIONS OUTLET OF AMERICA, INC., a
20 Delaware Corporation and DOES 1-500,
21 inclusive,

22 Defendants.
23 /

24 DEPOSITION OF PHOEBE MIRELES
25

26 DATE: November 15, 2007

27 TIME: 10:15 a.m.

28 LOCATION: One Montgomery Street
29 Suite 3220
30 San Francisco, California

31 REPORTED BY: Mary E. Garland
32 Certified Shorthand Reporter
33 License Number 4721
34

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Golden Gate Reporting

<p>1 the five cash registers ever closed out before the sales</p> <p>2 associates in the store had completed their duties at</p> <p>3 the end of the shift?</p> <p>4 A. When I personally closed --</p> <p>5 Q. No.</p> <p>6 A. -- or are you asking in general?</p> <p>7 Q. In general.</p> <p>8 A. I can't speak for any other manager, but I know</p> <p>9 I would never do that. I never did it.</p> <p>10 Q. So both when you were working as a Women's</p> <p>11 manager and a general manager, you would leave one or</p> <p>12 more of the point-of-sale cash registers available for</p> <p>13 sales associates to use to clock out?</p> <p>14 A. That's correct.</p> <p>15 Q. Are you aware of any instance during the course</p> <p>16 of your employment where any managers, for any reason,</p> <p>17 closed all of the cash registers down before the sales</p> <p>18 associates working that shift had clocked out?</p> <p>19 A. Yeah, there was a possibility. And it wasn't</p> <p>20 ever done on purpose. I remember very few times where</p> <p>21 they thought that a sales associates clocked out, and</p> <p>22 then began to close the store -- or close the register</p> <p>23 system down. Yeah, I'm sure. And so --</p> <p>24 Q. At the end of the shift, after it went to the</p> <p>25 point-of-sale timekeeping system, was it ever one of</p>	<p>1 described upstairs?</p> <p>2 A. Yes.</p> <p>3 Q. And what duties did you have that required you</p> <p>4 to work in that office?</p> <p>5 A. That would be doing the deposit and entering in</p> <p>6 sales numbers onto a sales report that was on a desktop</p> <p>7 on one of the computers.</p> <p>8 Q. And that was all work that you'd perform on a</p> <p>9 computer in that office?</p> <p>10 A. Yes.</p> <p>11 Q. And at the end of the shift, when you were</p> <p>12 working as one of the managers or the only manager</p> <p>13 closing the store, did you generally leave the store at</p> <p>14 the same time as the sales associates who were working</p> <p>15 the later shift?</p> <p>16 A. No. They would leave before me.</p> <p>17 Q. And what time would you typically leave in the</p> <p>18 evening when you were closing the store?</p> <p>19 A. It would depend. As long as everything was</p> <p>20 completed, then I would -- in the end, when I last left,</p> <p>21 the clocking in and out system was on the POS. And</p> <p>22 whomever closed with me, we closed out together, we</p> <p>23 entered our numbers, did the alarm, and walked out.</p> <p>24 Q. When you were closing the store, whether you</p> <p>25 were doing it on your own or with another manager, can</p>
Page 50	Page 52
<p>1 your jobs to report sales to the corporate office on the</p> <p>2 East Coast?</p> <p>3 A. Well, when you close a register down, it</p> <p>4 automatically pulls and they get the information, they</p> <p>5 get their data that they need.</p> <p>6 Q. Was there, at any point in time during your</p> <p>7 employment at Stanford, a time set by corporate policy</p> <p>8 when all cash registers had to be closed down to report</p> <p>9 to New York?</p> <p>10 A. No, not that I'm aware of, as long as it was</p> <p>11 closed. Otherwise, we wouldn't pull, and we would have</p> <p>12 to redo everything in the morning and the numbers would</p> <p>13 get in late.</p> <p>14 Q. So as long as you closed down the cash</p> <p>15 registers and they reported to New York by the time the</p> <p>16 manager or managers left the store that evening, that</p> <p>17 was permissible?</p> <p>18 A. Yes.</p> <p>19 MR. KITCHIN: Why don't we go off the record</p> <p>20 and take a break.</p> <p>21 (Brief recess taken.)</p> <p>22 MR. KITCHIN: We'll go back on the record.</p> <p>23 Q. At anytime when you were one of the managers</p> <p>24 closing the store at the end of the day, did you have</p> <p>25 duties that required you to work out of the office you</p>	<p>1 you, please, describe the sequence of tasks that you</p> <p>2 generally performed from kind of starting the closing</p> <p>3 process to walking out the door.</p> <p>4 A. Sure. Well, we -- like I said, we started</p> <p>5 closing the registers about 8:30. So that was part of</p> <p>6 the closing procedure. We'd start two registers, third,</p> <p>7 fourth, and left one open, two, if needed, you know, if</p> <p>8 we needed to. It just depends on how many clients were</p> <p>9 in the store at the time. And then so the last register</p> <p>10 was open. I did my deposits upstairs, entered in sales</p> <p>11 numbers, resumed helping the sales associates fold.</p> <p>12 Because from eight o'clock, on, really, we're starting</p> <p>13 to fold-down and fix the store.</p> <p>14 And then when all the departments were folded</p> <p>15 and clean, that was the time to check out. And I would</p> <p>16 -- either myself, another manager, or that closing</p> <p>17 person, senior seller, we would all meet at the back</p> <p>18 door, which was to the parking lot, and check them out</p> <p>19 for the day.</p> <p>20 Q. How long would it typically take you, if you</p> <p>21 were the only person closing the registers, to close all</p> <p>22 of the registers, except for the one or two that you</p> <p>23 kept open?</p> <p>24 A. It could be as fast as 20, 25 minutes.</p> <p>25 Q. And you said you would begin that approximately</p>
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14 (Pages 50 to 53)

Golden Gate Reporting

<p>1 how long before the store would close?</p> <p>2 A. About a half an hour, sometimes later. It</p> <p>3 would just depend on, again, the clients, the amount of</p> <p>4 clients in the store.</p> <p>5 Q. And after you completed that task, would you</p> <p>6 then typically go upstairs to the office?</p> <p>7 A. Yes. I would finalize the deposits -- I would</p> <p>8 always want to do that first -- enter in the sales</p> <p>9 numbers; and then continue helping them fold-down, the</p> <p>10 sales associates.</p> <p>11 Q. And what do you mean by "finalize" or do the</p> <p>12 deposits?</p> <p>13 A. Well, we had to -- I don't remember the process</p> <p>14 exactly, but everything needed to be done that night.</p> <p>15 If there was live money, check, it needed to be dropped</p> <p>16 into the safe. Things of that nature, just following</p> <p>17 that sort of policy and procedure.</p> <p>18 And then I would have to enter in sales</p> <p>19 numbers, so that, say, if I was off the next day,</p> <p>20 everything was clear and concise for the opening manager</p> <p>21 to follow through with.</p> <p>22 Q. Now, in terms of the deposits, I thought you</p> <p>23 had said that you didn't take the money out of the cash</p> <p>24 registers?</p> <p>25 A. No. Again, this is only if there was live</p>	<p>1 perform up in the office at the end of your shift when</p> <p>2 you were working as a manager, closing the store?</p> <p>3 A. Not that I can recall.</p> <p>4 Q. Did you use that time to call clients of Polo?</p> <p>5 A. No.</p> <p>6 Q. Did you talk with any other managers at Polo,</p> <p>7 like Kim Babka, over the phone?</p> <p>8 A. Yes.</p> <p>9 Q. During that time?</p> <p>10 A. Yes, sometimes. Not all the times.</p> <p>11 Q. And during those conversations, those were to</p> <p>12 update people about what had happened during the day, I</p> <p>13 take it?</p> <p>14 A. Yes.</p> <p>15 Q. So if you're doing the closing yourself, it's</p> <p>16 20 to 25 minutes to close the tills?</p> <p>17 A. Mm-hm.</p> <p>18 Q. Yes?</p> <p>19 A. Starting from 8:30, on, yes.</p> <p>20 Q. And then you'd go upstairs and spend another</p> <p>21 15 to 20 minutes doing the data entry and the tasks that</p> <p>22 you had up in the office?</p> <p>23 A. Yes, that's correct.</p> <p>24 Q. During that combined time period, were sales</p> <p>25 associates doing the fold-down of the store?</p>
Page 54	Page 56
<p>1 money or checks that needed to be deposited.</p> <p>2 Q. What is live money?</p> <p>3 A. Like, say, we had cash for the day, then that</p> <p>4 would be taken out. The only thing that remained in the</p> <p>5 till was the opening dollar amount, which I can't</p> <p>6 remember that exact amount at the moment.</p> <p>7 Q. So when you went through to close down the</p> <p>8 registers and count the money, if there was more money</p> <p>9 in the till than was required for the opening bank --</p> <p>10 A. Yes.</p> <p>11 Q. -- you would take that money, collect that</p> <p>12 money and then take it upstairs?</p> <p>13 A. Yes. It would be dropped in the safe. Then I</p> <p>14 would go back and actually do the process, the final</p> <p>15 process of writing in everything. I just didn't want</p> <p>16 that money on me or leaving it in the register.</p> <p>17 Q. So then would you enter in the sales numbers?</p> <p>18 A. Mm-hm.</p> <p>19 Q. And that was a manual process?</p> <p>20 A. Yes.</p> <p>21 Q. And the combined process, after you got</p> <p>22 upstairs to do the deposits and put in the sales</p> <p>23 numbers, how long did that process, in total, take?</p> <p>24 A. Maybe 15, 20 minutes, at the most.</p> <p>25 Q. Was it typical that you had other duties to</p>	<p>1 A. Yes, that's correct.</p> <p>2 Q. When you were closing as a manager, throughout</p> <p>3 the course of your employment in the Stanford Polo</p> <p>4 store, were there times when sales associates contacted</p> <p>5 you in some way from downstairs to tell you that they</p> <p>6 were ready to leave?</p> <p>7 A. Yes.</p> <p>8 Q. And would they page you or --</p> <p>9 A. Yes.</p> <p>10 Q. They would page you --</p> <p>11 A. Either a page, or sometimes they would come up.</p> <p>12 Q. Would some sales associates finish their tasks</p> <p>13 and be ready to leave before other sales associates had</p> <p>14 finished their tasks and were leaving, or did all the</p> <p>15 sales associates typically leave at the same time --</p> <p>16 A. They would typically --</p> <p>17 Q. -- at the end of the shift?</p> <p>18 A. Sorry. They would typically leave at the same</p> <p>19 time. If one wanted to prepare for the next day and do</p> <p>20 a little more work, that was up to them.</p> <p>21 Q. Sales associates, at the end of the day, after</p> <p>22 they have performed what they believed to be all of</p> <p>23 their duties for that day, would then go to one of the</p> <p>24 cash registers that was still open and clock out; is</p> <p>25 that correct?</p>
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15 (Pages 54 to 57)

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<p>1 A. Yes.</p> <p>2 Q. And did they have a break room in the store?</p> <p>3 A. Yes.</p> <p>4 Q. And did they have lockers in the store?</p> <p>5 A. Yes.</p> <p>6 Q. So would employees typically clock out and then</p> <p>7 go to their lockers and get purses and personal</p> <p>8 belongings?</p> <p>9 A. No. They would actually get their things and</p> <p>10 then clock out.</p> <p>11 Q. How do you know that?</p> <p>12 A. I remember them doing so.</p> <p>13 Q. So employees would --</p> <p>14 A. I don't know for sure if they did it all the</p> <p>15 time, but I remember that.</p> <p>16 Q. So you saw sales associates who were going to</p> <p>17 the lockers to get their bags and personal items, taking</p> <p>18 those items back to the cash register, and then clocking</p> <p>19 out?</p> <p>20 A. Yes. Say, they were leaving for the day, they</p> <p>21 put their scarfs on, their jackets, grab their bags, go</p> <p>22 downstairs, do their thing, and then meet someone at the</p> <p>23 door.</p> <p>24 Q. Were there ever times when you were paged to do</p> <p>25 the loss prevention or bag checks for sales associates</p>	<p>1 a possibility?</p> <p>2 A. I think it was brought to my attention that a</p> <p>3 manager said that the associates complained about</p> <p>4 waiting and they claimed it was like a few minutes, when</p> <p>5 I don't know how long it was for the sales associates.</p> <p>6 Q. Who claimed that it was a few minutes?</p> <p>7 A. Any manager at the time. It could have been</p> <p>8 Haaheo, it could have been -- who else was the manager</p> <p>9 at the time? -- Sabrina. There was an assistant key</p> <p>10 holder, Jennifer. I don't know for sure. It could have</p> <p>11 been any one of them.</p> <p>12 Q. Now, let me make sure we have this clear.</p> <p>13 So a manager told you that sales associates had</p> <p>14 complained about the wait time to get --</p> <p>15 A. Yes.</p> <p>16 Q. -- out of the store, and the manager told you</p> <p>17 that the sales associates had only waited a few minutes?</p> <p>18 A. Right.</p> <p>19 Q. Based on your memory of this --</p> <p>20 A. Right.</p> <p>21 Q. -- did the sales associates tell the manager,</p> <p>22 who told you, that they had only waited a few minutes,</p> <p>23 or do you know?</p> <p>24 A. I don't know.</p> <p>25 Q. Was it your impression that the sales</p>
Page 58	Page 60
<p>1 when you couldn't respond to them within a few minutes?</p> <p>2 A. Sometimes. But typically, we would partner</p> <p>3 with the other person. So if I was the one doing all</p> <p>4 the deposits and the numbers, the other person, whether</p> <p>5 it was a manager or senior seller, would have the keys</p> <p>6 and be ready for them to leave.</p> <p>7 Q. So more often than not, there were at least two</p> <p>8 people in the store with keys who were permitted to let</p> <p>9 people out of the store at the end of the shift?</p> <p>10 A. If there are two managers, we had two sets of</p> <p>11 keys. If there was one manager and, say, a senior</p> <p>12 seller, we had one set of keys. Say, I was doing things</p> <p>13 upstairs -- or vice versa, that person could do that</p> <p>14 upstairs -- I would be downstairs with the keys or they</p> <p>15 would be downstairs with the keys.</p> <p>16 Q. Throughout the course of your employment at the</p> <p>17 Stanford Shopping Center, did you ever hear of any sales</p> <p>18 associates complaining that they had been required to</p> <p>19 wait for what they thought was an unreasonable period of</p> <p>20 time to be let out of the store to go home?</p> <p>21 A. No, not to my knowledge.</p> <p>22 Q. So you had never even heard from another</p> <p>23 manager of such a complaint?</p> <p>24 A. There's a possibility, yes.</p> <p>25 Q. On what do you base the statement that there's</p>	<p>1 associates were complaining that they had to wait for</p> <p>2 more than a few minutes?</p> <p>3 A. No. Because I never got a complaint, a</p> <p>4 personal complaint. This is all word of mouth, through</p> <p>5 managers, or a manager -- I don't remember -- and it</p> <p>6 wasn't something that happened very often. And if it</p> <p>7 did, they would say it and it was in passing, and they</p> <p>8 had apologized for maybe they were busy, in the</p> <p>9 restroom. I don't know.</p> <p>10 But I would always ask, "Well, why were they</p> <p>11 waiting for that amount of time?" or however long it</p> <p>12 was. But it was never more than a few minutes.</p> <p>13 Q. On how many separate occasions do you recall</p> <p>14 hearing from any source that sales associates were</p> <p>15 complaining about having to wait too long to leave the</p> <p>16 store?</p> <p>17 A. Very few. And if it was, it was during a very</p> <p>18 short period of time where we were maybe short on</p> <p>19 managers. Just trying to think here. There's myself --</p> <p>20 I would say just a few times. There wasn't a whole lot</p> <p>21 of complaints that I can remember. And, again, it</p> <p>22 wasn't to me; possibly to other managers.</p> <p>23 Q. Were there any occasions where you learned from</p> <p>24 any source that sales associates were complaining that</p> <p>25 it took what they believed to be an unreasonable period</p>
Page 59	Page 61

16 (Pages 58 to 61)

1 CERTIFICATION OF DEPOSITION OFFICER

2
3 I, MARY E. GARLAND, duly authorized to administer
4 oaths pursuant to Section 2093(b) of the California Code
5 of Civil Procedure, do hereby certify that the witness
6 in the foregoing deposition was duly sworn by me to
7 testify to the truth, the whole truth and nothing but
8 the truth in the within-entitled cause; that said
9 deposition was taken at the time and place therein
10 stated; that the testimony of said witness was
11 thereafter transcribed by means of computer-aided
12 transcription under my direction; that the foregoing is

13 a full, complete and true record of said testimony; and
14 that the witness was given an opportunity to read and
15 correct said deposition and to subscribe to the same.

16 I further certify that I am not of counsel or
17 attorney for either or any of the parties in the
18 foregoing deposition and caption named, nor in any way
19 interested in the outcome of the cause named in said
20 caption.

21 Executed November 26, 2007, at San Francisco,
22 California.

23
24 
25 MARY E. GARLAND, CSR 4721

EXHIBIT 45.

Golden Gate Reporting

<p>1 commissioned sales.</p> <p>2 Q. Does the phrase "base rate against</p> <p>3 commission" ring a bell?</p> <p>4 A. Well, that's basically what I'm referring</p> <p>5 to, yeah, yes, rings a bell.</p> <p>6 Q. And individuals in your department, were</p> <p>7 they provided by Polo a sales goal or target that</p> <p>8 equaled their hourly rate times the hours worked?</p> <p>9 A. Yes.</p> <p>10 Q. And was that kind of the minimum sales</p> <p>11 that individuals were expected to make?</p> <p>12 A. Yes. That was the expectation.</p> <p>13 Q. Were other sales goals that were higher</p> <p>14 than that also set for sales associates?</p> <p>15 A. Target sales, no. I mean everybody who</p> <p>16 was -- ideally we wanted everybody to sell more</p> <p>17 than their base rate and to earn more money. At</p> <p>18 least that was my position. Didn't happen very</p> <p>19 often.</p> <p>20 Q. Okay. How often would your department</p> <p>21 sales associates did they meet or exceed the base</p> <p>22 rate versus commission goal that was determined to</p> <p>23 cover their wages?</p> <p>24 A. I only have a recollection of a couple of</p> <p>25 times that Justin, Justin Kaiser had actually</p>	<p>1 A. The one-on-ones.</p> <p>2 Q. And what were the one-on-ones?</p> <p>3 A. Just review. Review exactly what you're</p> <p>4 talking about, the sales performance relative to</p> <p>5 their targets and talk about ways to get there and</p> <p>6 just things of that nature. Basically it was to</p> <p>7 keep them abreast of where they were</p> <p>8 performance-wise.</p> <p>9 Q. Do you recall if you ever had occasion to</p> <p>10 review sales records of any of your sales</p> <p>11 associates in the men's department where the sales</p> <p>12 associate had not even sold one half of their</p> <p>13 target goal?</p> <p>14 A. Yes, I'm sure that happened, yes.</p> <p>15 Q. When you had the one-on-ones with your</p> <p>16 sales associates, was that typically a meeting</p> <p>17 just between the two of you or were there other</p> <p>18 managers that participated as well?</p> <p>19 A. I had both. There were times when it was</p> <p>20 done in conjunction with the general manager and</p> <p>21 others when it was just me and the sales</p> <p>22 associate.</p> <p>23 Q. You indicated earlier that the closing</p> <p>24 procedure that managers participated in including</p> <p>25 transmitting sales data to the corporate office I</p>
Page 34	Page 36
<p>1 exceeded his sales and achieved his goals.</p> <p>2 Q. Do you have any recollection of any other</p> <p>3 sales associates in your department who at least</p> <p>4 on occasion made their numbers or exceeded their</p> <p>5 numbers?</p> <p>6 A. You know, I'm sure it must have happened,</p> <p>7 but I don't recall specifically.</p> <p>8 Q. During the time you were employed by Polo</p> <p>9 were any sales associates in any department</p> <p>10 terminated because of their failure to meet or</p> <p>11 cover their wages through sales?</p> <p>12 A. Yes, there was at least one person.</p> <p>13 Q. Anyone in your department?</p> <p>14 A. Yes.</p> <p>15 Q. Who was that?</p> <p>16 A. Don't remember. It was a female employee</p> <p>17 in sports, and she failed to meet her goals the</p> <p>18 designated number of pay periods in a row.</p> <p>19 Consequently, by virtue of the way rules</p> <p>20 are written, had to be dismissed. I don't</p> <p>21 remember.</p> <p>22 Q. Did you have regular meetings with sales</p> <p>23 associates in your department during which you</p> <p>24 discussed their performance and goals that had</p> <p>25 been set for their performance?</p>	<p>1 take it; is that correct?</p> <p>2 A. Some central location, yeah.</p> <p>3 Q. Can you describe to the best of your</p> <p>4 recollection how that process worked?</p> <p>5 A. It was a case of just entering the number</p> <p>6 of -- making a number of entries on the computer</p> <p>7 to go through the process, and I don't recall the</p> <p>8 details of it. I didn't do it that often.</p> <p>9 It was not something I got -- I typically</p> <p>10 enjoyed doing, so, as I said, I was often involved</p> <p>11 in the cleanup and recovery of my floor and then</p> <p>12 -- but allow or ask one of other managers if they</p> <p>13 would do it.</p> <p>14 Q. Was that process of transmitting sales</p> <p>15 data something that was typically done around</p> <p>16 closing time --</p> <p>17 A. Shortly after the doors were locked and</p> <p>18 the store was pretty much ready to at that point,</p> <p>19 at that point, yeah, everybody should have been</p> <p>20 ready or ready exiting the building except for the</p> <p>21 managers.</p> <p>22 Q. So that process typically took place after</p> <p>23 sales associates had left for the day?</p> <p>24 A. It could have, but there were times when</p> <p>25 it was done while the sales associates were still</p>
Page 35	Page 37

10 (Pages 34 to 37)

Golden Gate Reporting

<p>1 in the store.</p> <p>2 Q. Do you have any kind of an estimate as to</p> <p>3 how long it took a manager to go through that</p> <p>4 process of transmitting sales data?</p> <p>5 A. It was probably 15 to 20 minutes, maybe</p> <p>6 less if you're really efficient.</p> <p>7 Q. And where did they typically perform that</p> <p>8 function?</p> <p>9 A. There was a specific computer that was</p> <p>10 used for that. I think it was maybe even Theresa</p> <p>11 Cruz's actually. I'm not sure.</p> <p>12 Q. What other duties did managers perform at</p> <p>13 closing time other than transmitting this data as</p> <p>14 we just talked about and recovering their</p> <p>15 department?</p> <p>16 A. Well the only other thing that really you</p> <p>17 needed to do or needed to be done by a manager is</p> <p>18 to inspect the employee's belongings, purses,</p> <p>19 bags, whatever, gym bag, anything of that nature</p> <p>20 an allow them to leave through the employee</p> <p>21 entrance.</p> <p>22 Q. Were there occasions after the close of</p> <p>23 the store but before sales associates went home</p> <p>24 when you had duties that required you to be on the</p> <p>25 telephone to talk with customers or other managers</p>	<p>1 lower level and went out into the Galleria Mall.</p> <p>2 Q. And on occasion did you perform those</p> <p>3 inspections?</p> <p>4 A. Yes.</p> <p>5 Q. And I want to focus just on the inspection</p> <p>6 part itself. What would typically -- what would</p> <p>7 you typically do to performing that inspection?</p> <p>8 A. Basically you'd look into any packages or</p> <p>9 bags or anything of that nature where some</p> <p>10 merchandise could be concealed. Basically that's</p> <p>11 what you were looking for, something of that</p> <p>12 nature. If somebody made a purchase, check the</p> <p>13 receipt or something of that type.</p> <p>14 Q. Could you describe the process that a</p> <p>15 sales associate typically went through at the end</p> <p>16 of the day when you or someone else indicated that</p> <p>17 their department was clean and ready and they were</p> <p>18 permitted to leave?</p> <p>19 A. Well, from my area they would go</p> <p>20 downstairs to the employee lockers where they keep</p> <p>21 their belongings, gathered their things, and,</p> <p>22 actually, they should have clocked out prior to</p> <p>23 that point, then go get their things and wait for</p> <p>24 a manager to release them, follow the inspection,</p> <p>25 the loss prevention inspection.</p>
Page 38	Page 40
<p>1 or people from Polo?</p> <p>2 A. Not a requirement. Nothing was done on a</p> <p>3 regular basis. It could happen. It wasn't</p> <p>4 necessarily something you had to do on a regular</p> <p>5 basis.</p> <p>6 Q. What did Tin Hong Hua typically do during</p> <p>7 the shutdown process?</p> <p>8 A. You know, I don't know what exactly he was</p> <p>9 doing. I was upstairs, and he most of the time</p> <p>10 would be in his office which is in the lower</p> <p>11 level. When he was there at closing, he would</p> <p>12 often do that shutdown transmittal, you know, that</p> <p>13 sort of thing. He'd shut down the store.</p> <p>14 Q. I want to talk about the loss prevention</p> <p>15 inspections.</p> <p>16 You indicated that managers would check</p> <p>17 bags and belongings of individuals before they</p> <p>18 left the store.</p> <p>19 A. (Nodding head.)</p> <p>20 Q. Yes? Is that a yes?</p> <p>21 A. That is correct, yes.</p> <p>22 Q. And was there a specific entrance/exit</p> <p>23 that employees were required to use at the end of</p> <p>24 the business day?</p> <p>25 A. Yes. The employee entrance was in the</p>	<p>1 Q. And how would sales associates typically</p> <p>2 notify a manager that they were ready to have a</p> <p>3 loss prevention inspection performed?</p> <p>4 A. Well, sometimes they would call. There</p> <p>5 was a phone right there near that or very near to</p> <p>6 that door.</p> <p>7 My understanding was that was a location</p> <p>8 where there was at one time a loss prevention</p> <p>9 person, but then that was a position that no</p> <p>10 longer existed when I started working there, but,</p> <p>11 at any rate, there was a telephone call there, and</p> <p>12 they would call and say "We're waiting."</p> <p>13 Q. Would they call different departments?</p> <p>14 A. Yeah, trying to track down a manager.</p> <p>15 Q. Would they sometimes page a manager over</p> <p>16 the PA system?</p> <p>17 A. Same system, yeah.</p> <p>18 Q. And when you heard a page, what typically</p> <p>19 would people say over the PA system?</p> <p>20 A. Basically just to let you know that they</p> <p>21 were waiting to be allowed to leave.</p> <p>22 Q. And were there occasions when you heard</p> <p>23 more than one page asking for a manager at the</p> <p>24 close of the business day?</p> <p>25 A. Yes.</p>
Page 39	Page 41

11 (Pages 38 to 41)

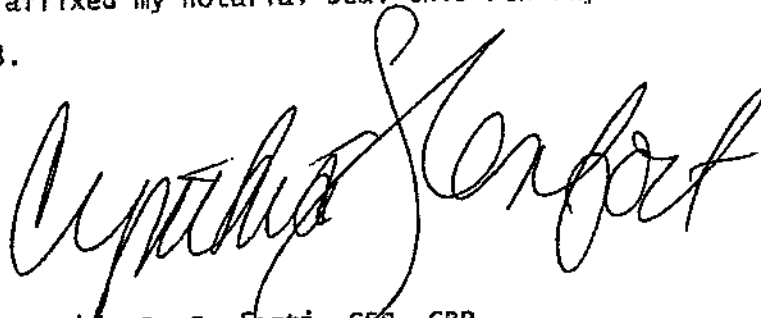
certcert

1 I further certify that the signature to the
2 foregoing deposition was not waived by counsel for
3 the respective parties.

4 I further certify that the taking of this
5 deposition was pursuant to subpoena, and that
6 there were present at the deposition the attorneys
7 hereinbefore mentioned.

8 I further certify that I am not counsel for
9 nor in any way related to the parties to this
10 suit, nor am I in any way interested in the
11 outcome thereof.

12 IN TESTIMONY WHEREOF: I have hereunto set my
13 hand and affixed my notarial seal this 7th day of
14 May, 2008.

15
16
17
18
19 

20 Cynthia J. Conforti, CSR, CRR

21 Notary Public, Cook County, Illinois

22 CSR License No. 084-003064
23
24
25

EXHIBIT 46.

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA
3 SAN FRANCISCO DIVISION
4

5 ANN OTSUKA, an individual; JANIS No. C-07-02780-SI
6 KEEFE, an individual; CORINNE
7 PHIPPS, an individual; and
8 JUSTIN KISER, an individual;
9 individually and on behalf of
10 all others similarly situated,

11 Plaintiffs,
12 vs.

13 POLO RALPH LAUREN CORPORATION;
14 a Delaware Corporation; POLO
15 RETAIL, LLC, a Delaware Corporation;
16 POLO RALPH LAUREN CORPORATION, a
17 Delaware Corporation, doing business
18 in California as POLO RETAIL CORP;

19 FASHIONS OUTLET OF AMERICA, INC., a
20 Delaware Corporation and DOES 1-500,
21 inclusive,

22 Defendants.
23 /

24 DEPOSITION OF ROSALINDA WALLWORK
25

26 DATE: November 13, 2007

27 TIME: 10:02 a.m.

28 LOCATION: 1900 University Avenue
29 Fifth Floor
30 East Palo Alto, California

31 REPORTED BY: Mary E. Garland
32 Certified Shorthand Reporter
33 License Number 4721
34

Page 1

1 reporting of the day is done in the back. I mean,
2 there's no way to do it anywhere else.
3 Q. During that time period when you were a key
4 holder, was one of your duties to close down the
5 registers within the store?
6 A. Yes. Yes.
7 Q. And how many registers would you close down
8 when you were doing that function?
9 A. About six. But most of the time, it was two,
10 because that's how many were in my department.
11 Q. And how long would it take you to close down
12 the two registers?
13 A. Ten, 15 minutes.
14 Q. Ten or 15 minutes?
15 A. Mm-hm.
16 Q. When you were closing the registers in your
17 department, was that during a time when the other sales
18 associates were performing other assignments, or were
19 they gone by that time?
20 A. No. They would stay and fold. It depends on
21 which department, because I worked in two. In one, the
22 closing was pretty quickly. So if we closed at six,
23 most of the time, they'd be gone before I even finished
24 closing the register, so.
25 Q. At some point, you left the Women's, Ladies'

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1 department to work in the Men's Sports department; is
2 that correct?
3 A. Yes.
4 Q. How long were you in the Ladies' department,
5 approximately?
6 A. I was there twice, so.
7 Q. Why don't you give me kind of a chronology --
8 A. Okay.
9 Q. -- of your movement within the Polo store in
10 San Francisco.
11 A. I worked in the Women's department for roughly
12 about maybe four months, four or five months, moved up
13 to Polo Sport, different department; and then eventually
14 came back down and worked in Women's again.
15 So it's hard to say the time that I was --
16 Q. When you went to Men's Sports, were you
17 promoted to assistant manager of the department?
18 A. Yes.
19 Q. And as assistant manager, did you take on
20 additional responsibilities?
21 A. Yes.
22 Q. And what other responsibilities did you take on
23 as assistant manager of Men's Sports?
24 A. Well, I managed the people that worked in that
25 department, reporting, sales; pretty much running the

Page 55

1 department.
2 Q. I forgot to ask one question back when you were
3 a key holder in the Women's or Ladies' department. How
4 long was your typical day during that time period?
5 A. Long. About maybe six, six or seven -- no.
6 Wait. We would start at eight and we'd leave there at
7 six, six or seven. So typically, 11, 11 hours or ten.
8 Q. As a key holder, were you paid an hourly wage?
9 A. Yes.
10 Q. Did you receive premium overtime compensation
11 for working more than eight hours in a specific day?
12 A. Yes.
13 Q. So premium being you would get time and a half,
14 1.5 times your hourly rate?
15 A. I don't remember the specifics of it or how it
16 was paid, but I did receive overtime if I worked.
17 Q. Do you recall, the overtime, if you worked more
18 eight hours in a day, was that overtime more than your
19 regular hourly rate or the same as your regular hourly
20 rate?
21 A. I don't remember how that was paid out. I know
22 it sounds really strange, but I don't remember even
23 looking at my paychecks. I get direct deposit, so I
24 never really saw them.
25 Q. When you began working in the Men's Sports

Page 56

1 department as an assistant manager, were you still being
2 paid on an hourly basis?
3 A. I was on salary.
4 Q. And typically, how long were your days when you
5 were on salary as an assistant manager?
6 A. Pretty much the same. I'd start at eight, till
7 about six.
8 Q. Did Tin Hua ever ask you to wait after your
9 duties were completed for that day, so that you could do
10 a loss prevention inspection of him when he left the
11 store later?
12 A. Yes.
13 Q. Did that happen quite often?
14 A. Yes.
15 Q. And sometimes did that take more than an hour,
16 when you were waiting for him to be ready to leave?
17 A. Not -- I mean, it had happened a couple times,
18 but it wasn't -- I mean, it wasn't normal practice that
19 we would wait there.
20 Q. During the time that you were a key holder,
21 you were still required to undergo loss prevention
22 inspections when you left the building; correct?
23 A. Yes.
24 Q. And also when you were an assistant manager,
25 you were required to undergo loss prevention

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15 (Pages 54 to 57)

1 CERTIFICATION OF DEPOSITION OFFICER
2

3 I, MARY E. GARLAND, duly authorized to administer
4 oaths pursuant to Section 2093(b) of the California Code
5 of Civil Procedure, do hereby certify that the witness
6 in the foregoing deposition was duly sworn by me to
7 testify to the truth, the whole truth and nothing but
8 the truth in the within-entitled cause; that said
9 deposition was taken at the time and place therein
10 stated; that the testimony of said witness was
11 thereafter transcribed by means of computer-aided
12 ~~transcription under my direction; that the foregoing is~~
13 a full, complete and true record of said testimony; and
14 that the witness was given an opportunity to read and
15 correct said deposition and to subscribe to the same.

16 I further certify that I am not of counsel or
17 attorney for either or any of the parties in the
18 foregoing deposition and caption named, nor in any way
19 interested in the outcome of the cause named in said
20 caption.

21 Executed November 26, 2007, at San Francisco,
22 California.

23
24 
25 MARY E. GARLAND, CSR 4721

EXHIBIT 47.

COPY

1

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA
3 SAN FRANCISCO DIVISION

4 -----x
5 ANN OTSUKA, an individual; JANIS KEEFE, an
6 individual; CORINNE PHIPPS, an individual;
7 JUSTIN KISER, an individual; individually and
8 on behalf of all others similarly situated, and
9 RENEE DAVIS, an individual; individually and on
10 behalf of all others similarly situated,

11 Plaintiffs,

12 -against-

13 POLO RALPH LAUREN CORPORATION; a Delaware
14 Corporation; POLO RETAIL, LLC., a Delaware
15 Corporation; POLO RALPH LAUREN CORPORATION, a
16 Delaware Corporation, doing business in
17 California as POLO RETAIL CORP; FASHIONS OUTLET
18 OF AMERICA, INC., a Delaware Corporation,

19 Defendants,

20 Case No.: C-07-02780-SI
21 -----x

22 200 Park Avenue
23 New York, New York

24 December 4, 2007
25 10:18 a.m.

26 Videotaped Deposition of JUSTIN KISER,
27 pursuant to notice, before Sophie Nolan, a
28 Notary Public of the State of New York.

29 ELLEN GRAUER COURT REPORTING CO. LLC
30 126 East 56th Street, Fifth Floor
31 New York, New York 10022
32 212-750-6434
33 Ref: 86114

1 KISER

2 A. Yeah. I mean not at the exact same
3 time, but, yeah. We wanted to get out of
4 there, so pretty much yes.

5 Q. Okay. And then was the bag check
6 performed at that time?

7 A. No, not right when we got down
8 there.

9 Q. Okay. So, you've been in the
10 store, you said for up to two hours past your
11 scheduled time of 7 o'clock. It's 9 o'clock

12 now. You get down to the door and what do you
13 do there?

14 A. We have to page a manager to come
15 and let us out.

16 Q. But hasn't the manager just told
17 you that the department is okay and you can go?

18 A. Yeah, but he's up looking at other
19 floors or he's looking at the numbers, or she
20 is. They're doing numerous things. They've
21 never followed us down once.

22 Q. But are there other managers in the
23 store?

24 A. There are, but that's why -- a
25 manager couldn't leave alone so there would

C E R T I F I C A T E

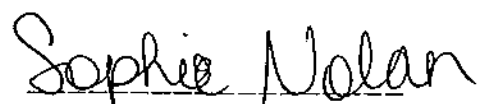
STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

I, SOPHIE NOLAN, a Notary Public
within and for the State of New York, do
hereby certify:

That JUSTIN KISER, the witness
whose deposition is herein before set forth,
was duly sworn by me and that such deposition
is a true record of the testimony given by
such witness.

I further certify that I am
not related to any of the parties to this
action by blood or marriage; and that I am in
no way interested in the outcome of this
matter.

IN WITNESS WHEREOF, I have
hereunto set my hand this 17th day of December,
2007.



SOPHIE NOLAN

EXHIBIT 48.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

ANN OTSUKA, an individual,
et al.,

CERTIFIED COPY

Plaintiffs,

vs.

No. C-07-02780-SI

POLO RALPH LAUREN CORPORATION,
et al.,

Defendants.

Videotaped Deposition of

JANIS KEEFE

Monday, March 17, 2008

Reported by:
IRIS MEINKE-SMITH, RMR/CRR
CSR No. 3798
Job No. 18235LR



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795 FOLSOM STREET, FIRST FLOOR
SAN FRANCISCO, CA 94107
1-888-333-8270
WWW.PHILLIPSDEPO.COM

1 Kristi's office?

2 A. well, sometimes I was told to clock out
3 there because I would tell them that there was no
4 register to clock out in.

01:43:11 5 Q. And then would your normal practice be to
6 call -- well, strike that.

7 would your normal practice be to call a
8 manager before you clocked out or after you clocked
9 out to be allowed to exit through the employee exit
01:43:32 10 at the rear of the property?

11 A. After we clocked out.

12 Q. And what process or procedure did you use to

13 contact someone who was authorized to perform the
14 loss prevention search?

01:43:48 15 A. If there was a manager there to relieve you
16 for your shift, then they were usually aware that
17 there was people at the door waiting. If there was
18 no one at the door, or a manager that wasn't there
19 when your shift was over, then you would have to page
01:44:07 20 a manager using the phone, the intercom.

21 Q. So on occasion -- I'm going to ask for some
22 quantification, but let's ignore the quantification
23 for a moment.

24 On occasions a manager would be at the door
01:44:29 25 doing loss prevention searches for others such as

1 yourself departing the store at the end of the day?

2 A. On some occasions.

3 Q. So I take it what you say is on the majority
4 of occasions you needed to page a manager to conduct
01:44:46 5 this search before you departed?

6 A. Yes.

7 Q. And let me -- I want to come back to this in
8 a minute, but I want to go to departing the store for
9 lunch breaks.

01:45:25 10 would you use the same procedure to depart
11 the store for lunch breaks as you used to exit at the
12 end of the day?

13 You would clock out, go to the employee
14 exit, and either a manager there or call a manager,
01:45:40 15 and then he or she would do the search and let you
16 out?

17 A. Yes.

18 Q. Okay. In response to a question a minute
19 ago you indicated that -- I think the phrase you

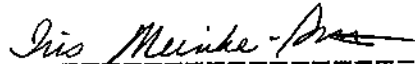
01:46:08 20 used, on some occasions a manager was there to
21 perform the loss prevention search after I clocked
22 out, walked to the door and he or she performed a
23 loss prevention search on exit, but you said on most
24 occasions I had to page someone. Is that -- am I
01:46:24 25 getting that right?

REPORTER'S CERTIFICATE

I certify that the foregoing proceedings in the within-entitled cause were reported at the time and place therein named; that said proceedings were reported by me, a duly certified Shorthand Reporter of the State of California authorized to administer oaths and affirmations, and were thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for either or any of the parties to said cause of action, nor in any way interested in the outcome of the cause named in said cause of action.

IN WITNESS WHEREOF, I have hereunto set my hand this 1st day of April, 2008.



IRIS MEINKE-SMITH, CA CSR No.3798
Registered Merit Reporter
Certified Realtime Reporter

EXHIBIT 49.

Golden Gate Reporting

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA
3 SAN FRANCISCO DIVISION
4

5 ANN OTSUKA, an individual;
6 JANIS KEEFE, an individual;
7 CORINNE PHIPPS, an individual;
8 and JUSTIN KISER, an individual;
9 individually and on behalf of
10 all others similarly situated,

11 Plaintiffs,

Case No. c-07-02780-SI

12 and

13 POLO RALPH LAUREN CORPORATION,
14 a Delaware corporation; POLO
15 RETAIL, LLC, a Delaware corporation;
16 POLO RALPH LAUREN CORPORATION, a

17 Delaware corporation, doing
18 business in California as POLO
19 RETAIL CORP; FASHIONS OUTLET OF
20 AMERICA, INC., a Delaware
21 corporation; and DOES 1-500,
22 inclusive,

23 Defendants.
24 _____/

25 DEPOSITION OF THERESA CRUZ

DATE: August 20, 2007

TIME: 10:00 a.m.

LOCATION: LAW OFFICE OF PATRICK R. KITCHIN
565 Commercial Street
Fourth Floor
San Francisco, California 94111

REPORTED BY: Katy Leonard
Certified Shorthand Reporter
License Number 11599

Page 1

Golden Gate Reporting

1 five seconds. How fast a person can walk.
 2 Q. And earlier, you talked about paging.
 3 A. Yes.
 4 Q. Now, what did you mean exactly by that --
 5 paging?
 6 A. They're paging the manager.
 7 Q. How many --
 8 A. We have an intercom. And then they call the
 9 manager to the back door, or "Manager, please call 200."
 10 The 200 is the telephone extension at the back door.
 11 Q. Do they ask for a specific manager?
 12 A. No. They just say, in general, "manager,"
 13 so whoever responds right away.
 14 Q. How would you know whether you would go or
 15 whether someone else would go?
 16 A. I will call that extension and someone will
 17 pick up from that extension and say, Oh, someone is
 18 coming to check us out already, or, So-and-so department
 19 manager already called us.
 20 Q. And has the checkout procedure you just
 21 described -- has it been the same since you've been
 22 working there?
 23 A. Yes.
 24 Q. And you began working there in 1994; is that
 25 correct?

Page 254

1 A. Yes.
 2 THE WITNESS: Is there construction in the
 3 building, or outside?
 4 MR. KITCHIN: There's a building next door.
 5 BY MR. KIM:
 6 Q. And how long did the inspections take,
 7 typically?
 8 MR. GOINES: Are you talking about how long the
 9 physical inspection of the bag took?
 10 MR. KIM: Physical inspection of the bag.
 11 THE WITNESS: The bag check?
 12 MR. KIM: Yes.
 13 THE WITNESS: It will take two seconds, unless
 14 you have other shopping bags with you that you went
 15 shopping, of course it will take about another two
 16 seconds to check that.
 17 BY MR. KIM:
 18 Q. Okay. Let me ask you some questions about
 19 meal and rest periods.
 20 Was there a time set for the meal period?
 21 A. No.
 22 For meal period? You mean --
 23 Q. Yeah.
 24 A. Oh, the lunch break?
 25 Q. For lunch break. Yeah.

Page 255

1 A. Yes, there is. With the Polo Sport
 2 department. The Polo Sport department.
 3 Q. I don't understand.
 4 A. In the Polo Sport department, they do
 5 communicate with their coworkers who goes first.
 6 Like, between twelve o'clock, one o'clock, two o'clock,
 7 and three o'clock.
 8 Q. So, there was a schedule that reflected --
 9 there was a schedule for all the employees; is that
 10 correct?
 11 A. It's not a formal document, but they just
 12 write it on a piece of paper, who goes first and who
 13 goes second. Who's next.
 14 Q. So, there was a set time for each employee
 15 to take a certain meal period; is that correct?
 16 A. Yes.
 17 Q. And was it your responsibility to make sure
 18 that they took their meal periods?
 19 A. No.
 20 Q. Whose responsibility was it?
 21 A. Um, it's the responsibility of the sales
 22 associate.
 23 Q. And to the -- well, let me move on to rest
 24 periods for a second.
 25 Was there a time set for rest periods?

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1 A. For the 15-minute break?
 2 Q. Yes.
 3 A. No.
 4 Q. Now, whose responsibility was it to make
 5 sure that the employees took their rest periods?
 6 A. It's the responsibility of the sales
 7 associate.
 8 Q. Okay. Do you know if they took their rest
 9 periods?
 10 A. I would know if I see them, which is -- the
 11 break room is right across from my office.
 12 Q. So, let's be specific about the time period.
 13 A. Yes.
 14 Q. 2002 until now, do you know if your
 15 employees took rest periods?
 16 A. Not all of them.
 17 Q. Not all of them took rest periods?
 18 A. No.
 19 Q. Do you know why?
 20 A. It all depends with the sales associate.
 21 I'm only there to remind them once or twice. I will
 22 remind them, but I will not obligated -- I will not
 23 obligate them to take their meals, especially if they're
 24 working with their clients.
 25 Q. Okay. How do you know that they didn't take

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65 (Pages 254 to 257)

CERTIFICATION OF DEPOSITION OFFICER

I, KATY LEONARD, duly authorized to administer oaths pursuant to Section 2093(b) of the California Code of Civil Procedure, hereby certify that the witness in the foregoing deposition was by me sworn to testify to the truth, the whole truth and nothing but the truth in the within-entitled cause; that said deposition was taken at the time and place therein stated; that the testimony of the said witness was thereafter transcribed by means of computer-aided transcription; that the foregoing is a full, complete

and true record of said testimony; and that the witness was given an opportunity to read and correct said deposition and to subscribe the same.

I further certify that I am not of counsel or attorney for either or any of the parties in the foregoing deposition and caption named, or in any way interested in the outcome of this cause named in said caption.



KATY LEONARD, CSR 11599

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EXHIBIT 50.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

ANN OTSUKA, an individual,
et al.,

CERTIFIED COPY

Plaintiffs,

vs.

No. C-07-02780-SI

POLO RALPH LAUREN CORPORATION,
et al.,

Defendants.

Videotaped Deposition of

RENEE DAVIS

Wednesday, March 19, 2008

Reported by:
IRIS MEINKE-SMITH, RMR/CRR
CSR No. 3798
Job No. 18236LR



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1 to understand is -- let me read something to you.

2 A. Okay.

3 Q. This is from the third amended complaint.

4 And it says, "When Ms. Davis worked the closing shift
12:00:57 5 defendants, managers locked the store's exit door and
6 then required Ms. Davis to clock out and wait at the
7 store exit for a manager to check her person and
8 personal effects to ensure she and the other
9 employees were not attempting to steal merchandise.
12:01:13 10 She was regularly required to wait ten to 15 minutes
11 for the inspections after she had clocked out and was
12 never compensated for that time."

13 That's what has been filed with the court.

14 And what I want to understand is, was it every day
12:01:34 15 you waited ten to 15 minutes or -- I'm trying to
16 understand with what level, what the normal checkout
17 procedure was. was there -- I'm just trying to
18 understand the bases for what I've just read to you.

19 A. It didn't happen every day, but usually at
12:01:55 20 closing time you're down to usually one manager, and
21 that manager is in the back counting the tills. And
22 he's the one who has to search you and -- before you
23 can leave.

24 So at 10 o'clock when we're closing, you
12:02:10 25 know, they've pulled the tills and they're in the

1 back counting the tills. And after maybe 15 minutes,
2 you know, if not myself, somebody else would call and
3 say, "Hey, you know, can somebody just let us out?"

4 "Well, I'm busy. I can't leave the till,"
12:02:24 5 that type of thing. Or "I'm on the phone." And...

6 Q. So I'm -- I'm really -- I'm not trying to
7 put words in your mouth, but what I'm trying to
8 understand is, was the issue of waiting more than a
9 couple of minutes --

12:02:36 10 A. Yes.

11 Q. -- I'll get to that in a minute, normally,
12 usually at the closing shift?

13 A. Yes.

14 Q. At the nonclosing shift, so when you didn't
12:02:45 15 work a closing shift, because we had these staggered
16 shifts, was there a normal amount of time that you
17 would wait between clock-out, go get your coat, your
18 bags, your goods and have someone check you out?

19 A. Maybe five or ten minutes.

12:02:59 20 Q. So every -- in my understanding, at the end
21 of every shift, on a daily basis, regardless of the
22 end of the shift, you waited five to ten minutes to
23 be --

24 A. Yes.

12:03:11 25 Q. -- to have a loss prevention search?

REPORTER'S CERTIFICATE

I certify that the foregoing proceedings in the within-entitled cause were reported at the time and place therein named; that said proceedings were reported by me, a duly certified Shorthand Reporter of the State of California authorized to administer oaths and affirmations, and were thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for either or any of the parties to said cause of action, nor in any way interested in the outcome of the cause named in said cause of action.

IN WITNESS WHEREOF, I have hereunto set my hand this 4th day of April, 2008.



IRIS MEINKE-SMITH, CA CSR No.3798
Registered Merit Reporter
Certified Realtime Reporter

EXHIBIT 51.

Golden Gate Reporting

1 IN THE UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA
3 SAN FRANCISCO DIVISION
4

5 ANN OTSUKA, an individual;)
6 JANIS KEEFE, an individual,)
7 CORINNE PHIPPS, an)
8 individual; and RENEE DAVIS,)
9 an individual; individually)
10 and on behalf of all others)
11 similarly situated,)
12 Plaintiffs,)

13 -vs-) No. C-07-02780-SI
14)

15 POLO RALPH LAUREN CORPORATION;))
16 a Delaware Corporation; POLO)
17 RETAIL, LLC., a Delaware)
18 Corporation, POLO RALPH LAUREN))
19 CORPORATION, a Delaware)
20 Corporation, doing business in))
21 California as POLO RETAIL)
22 CORP; FASHIONS OUTLET OF)
23 AMERICA, INC., a Delaware)
24 Corporation,)
25 Defendants.)

26
27 The deposition of HARVEY RESNICK, called
28 by the Plaintiffs for examination, pursuant to
29 subpoena and pursuant to the Federal Rules of
30 Civil Procedure for the United States District
31 Courts pertaining to the taking of depositions,
32 taken before Cynthia J. Conforti, Certified
33 Shorthand Reporter, at Suite 2500, 77 West Wacker
34 Drive, Chicago, Illinois, commencing at the hour
35 of 10:09 a.m. on the 23rd day of April, A.D.,
36 2008.

Page 1

1 five-minute break.
2 (Whereupon a recess was had from
3 2:04 p.m. to 2:10 p.m.)
4 REDIRECT EXAMINATION
5 BY MR. KITCHIN:
6 Q. Just a couple clarification questions
7 follow-up.
8 Did you ever respond to a call or a page
9 for the employee exit that you responded to to
10 conduct the inspection to find that Tin Hua was in
11 his office on the telephone or otherwise engaged?
12 A. It's highly possible, but I can't say for
13 certain. I don't remember a specific incident.
14 Q. Did you ever respond to a call or page to
15 find Theresa Cruz in her office engaged in
16 something other than --
17 A. Not to my knowledge. It was not uncommon
18 at the end of the workday when we were going
19 through that process for Tin to be talking to a
20 manager from one of the other stores as I recall.
21 So if that -- I mean if that's what you're
22 referencing where he did do some business phone
23 call at that time of the day after hours, in fact
24 there was a time when he was responsible for the
25 Hawaii stores or something like that that he may

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1 have been on the phone and not been able to come
2 to the door.
3 Q. Did you ever hear any complaints by anyone
4 at Polo about Tin Hua's responsiveness or lack of
5 responsiveness to pages for loss prevention
6 inspections?
7 A. No.
8 Q. Did you ever hear anyone complain about
9 Theresa Cruz' lack of responsiveness to pages or
10 calls for loss prevention inspections?
11 A. In that sort of general conversation way,
12 that, you know, as I said earlier, a lot of things
13 were said by people on the sales floor in retail
14 stores, and it wasn't uncommon for the staff to be
15 a little more critical of Theresa than they were
16 of Tin.
17 Q. You have a general recollection of one or
18 more people complaining about Theresa Cruz'
19 failure to promptly respond to requests to perform
20 loss prevention inspections?
21 A. I don't have a specific recollection.
22 Q. Do you have a general recollection of
23 that --
24 A. Yeah.
25 Q. -- that type of discussion?

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1 Same question with respect to Valerie
2 Harris. Ever hear any complaint that she was not
3 very responsive to calls?
4 A. Yes.
5 Q. Do you remember who you heard that from?
6 A. No.
7 Q. Now, Mr. Goines asked you some questions
8 about how long it took you at times to get from
9 your department to the back door.
10 On those occasions when you heard a page
11 but you didn't respond to it knowing that there
12 was another manager closer, did you ever learn on
13 any of those occasions how long the individuals
14 had been waiting at the back door before they were
15 inspected and released?
16 A. If I follow what you're saying is that I
17 didn't respond to a page and ultimately later did?
18 Q. No --
19 A. -- and somebody else did not and they
20 waited a long time?
21 Q. No. Let me ask it this way:
22 There were occasions when you heard a page
23 for a manager to the back door --
24 A. Yes.
25 Q. -- when you didn't respond to that page.

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1 A. That's correct, yes.
2 Q. And sometimes you heard more than one page
3 for a manager to the back door on a single
4 evening, correct?
5 A. Yes.
6 Q. And on those occasions when you didn't go
7 down to do the loss prevention inspection but
8 apparently someone else did, did you ever learn
9 how long those individuals claimed that they had
10 waited for a loss prevention inspection?
11 A. Again, this would be a generalization.
12 There was always remarks being made, "Oh,
13 we waited 10 minutes, we waited five," that sort
14 thing, but did anybody specifically say, "I waited
15 20 minutes tonight for Theresa to come to the
16 door," no, I don't think so.
17 Q. Individuals. Okay.
18 Was there a general kind of perspective
19 that managers developed at the San Francisco Polo
20 store with respect to loss prevention inspections
21 that it was too burdensome to be running back to
22 the back door to let a single individual out, now
23 two people out, now five people out, now one
24 person out?
25 A. Sure. It was a feeling that people had,

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33 (Pages 126 to 129)

<p>1 but I don't think that they purposely acted on it 2 to make people wait intentionally. I think the 3 waiting was often just a product of what was going 4 on. 5 You were busy, you're doing things. 6 Sometimes I would go down to let people 7 out, and no sooner would I be at the top of the 8 stairs when another page would come. 9 I really don't think the managers 10 calculated among them as a group, "We are going to 11 make them wait." I don't think that was ever a 12 plan. 13 Q. Well, that's not what I'm suggesting or 14 asking. 15 I'm just wondering if there was kind of a 16 custom and practice that developed such that if 17 managers heard one person requesting a loss 18 prevention inspection and knew that there were 19 others that were going to be coming right behind 20 them that they would wait until the other people 21 had collected their things before going from one 22 part of the store to the employee exit. 23 A. It's possible. 24 Q. Did you kind of develop that kind of 25 custom and practice, that if you're letting one</p>	<p>1 A. Yes. 2 Q. So other than your observations and what 3 you heard from sales associates, do you have any 4 idea as to how long other sales associates within 5 the store were required to wait? 6 A. Do I have any idea how long? Just that, 7 you know, that same thing that I've been saying. 8 Conversation might be the next day or two days 9 later, "Do you know how long we waited to get out 10 of here the other night? 10 minutes, 15 minutes." 11 Just that type of a conversation, not, you know, a 12 specific, "Harvey, I need to talk to you. Here's 13 what happened last night." Nobody ever did that. 14 MR. KITCHIN: Okay. Those are all the 15 questions I think I have. 16 MR. GOINES: I'm done. Thank you. 17 MR. KITCHIN: Off the record. 18 (Whereupon a discussion was had 19 off the record.) 20 (Whereupon signature was 21 reserved.) 22 (The deposition was concluded at 23 2:18 p.m.) 24 (Exhibit 73 retained by the 25 court reporter.)</p>
<p>Page 130</p> <p>1 person go from your department as you described to 2 Mr. Goines and knew that you were letting other 3 people go within a matter of 10 or 15 minutes that 4 you would wait until you let the other people 5 leave before you went down to perform the loss 6 prevention inspection? 7 A. Personally I would not have done that. 8 Q. Had you heard that other managers were 9 doing something like that? 10 A. No. It's hard to, you know, to account 11 for what was happening at one end of the store on 12 a floor below you in terms of the proximity of a 13 manager to the door when the page comes through, 14 and it's not possible for me to know if somebody 15 chose not to respond. 16 Q. Now, your knowledge of how long people 17 were waiting at the back door for a loss 18 prevention inspection is based on two different 19 things. 20 One, your experience doing the loss 21 prevention inspection and having people tell you 22 at that time how long they had been waiting, and, 23 two, hearing sales associates in other contexts 24 tell you that they had waited for a certain amount 25 of time for loss prevention inspection?</p> <p>Page 131</p>	<p>Page 132</p> <p>1 IN THE UNITED STATES DISTRICT COURT 2 NORTHERN DISTRICT OF CALIFORNIA 3 SAN FRANCISCO DIVISION 4 ANN OTSUKA, an individual;) 5 et al.,) 6 Plaintiffs,) 7) 8 -vs-) No. C-07-02780-SI 9) 10 POLO RALPH LAUREN CORPORATION;) 11 et al.,) 12 Defendants.) 13) 14 I, HARVEY RESNICK, being first duly 15 sworn, on oath, say that I am the deponent in the 16 aforesaid deposition, that I have read the 17 foregoing transcript of my deposition taken April 18 23, 2008, consisting of Pages 1 through 136 19 inclusive, taken at the aforesaid time and place 20 and that the foregoing is a true and correct 21 transcript of my testimony so given. 22 23 _____ Corrections have been submitted 24 _____ No corrections have been 25 submitted 26 27 _____ 28 HARVEY RESNICK, Deponent 29 30 SUBSCRIBED AND SWORN TO 31 before me this _____ day 32 of _____ A.D., 2008. 33 34 _____ 35 Notary Public</p> <p>Page 133</p>

34 (Pages 130 to 133)

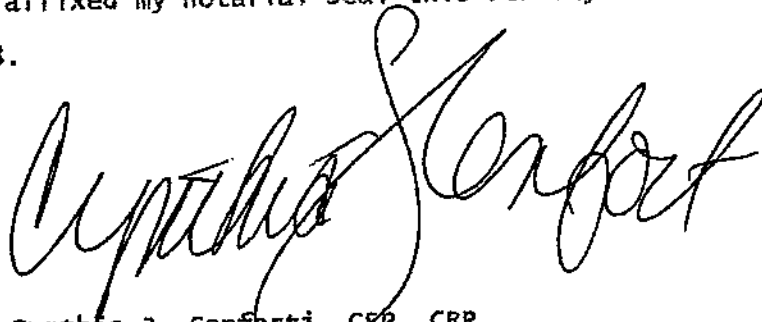
certcert

1 I further certify that the signature to the
2 foregoing deposition was not waived by counsel for
3 the respective parties.

4 I further certify that the taking of this
5 deposition was pursuant to subpoena, and that
6 there were present at the deposition the attorneys
7 hereinbefore mentioned.

8 I further certify that I am not counsel for
9 nor in any way related to the parties to this
10 suit, nor am I in any way interested in the
11 outcome thereof.

12 IN TESTIMONY WHEREOF: I have hereunto set my
13 hand and affixed my notarial seal this 7th day of
14 May, 2008.

15
16
17
18
19 

20 Cynthia J. Conforti, CSR, CRR
21 Notary Public, Cook County, Illinois

22 CSR License No. 084-003064
23
24
25

EXHIBIT 52.

COPY

1

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA
3 SAN FRANCISCO DIVISION

4 -----x
5 ANN OTSUKA, an individual; JANIS KEEFE, an
6 individual; CORINNE PHIPPS, an individual;
7 JUSTIN KISER, an individual; individually and
8 on behalf of all others similarly situated, and
9 RENEE DAVIS, an individual; individually and on
10 behalf of all others similarly situated,

11 Plaintiffs,

12 -against-

13 POLO RALPH LAUREN CORPORATION; a Delaware
14 Corporation; POLO RETAIL, LLC., a Delaware
15 Corporation; POLO RALPH LAUREN CORPORATION, a
16 Delaware Corporation, doing business in
17 California as POLO RETAIL CORP; FASHIONS OUTLET
18 OF AMERICA, INC., a Delaware Corporation,

19 Defendants,

20 Case No.: C-07-02780-SI

21 -----x

22 200 Park Avenue
23 New York, New York

24 December 4, 2007
25 10:18 a.m.

26 Videotaped Deposition of JUSTIN KISER,
27 pursuant to notice, before Sophie Nolan, a
28 Notary Public of the State of New York.

29 ELLEN GRAUER COURT REPORTING CO. LLC
30 126 East 56th Street, Fifth Floor
31 New York, New York 10022
32 212-750-6434
33 Ref: 86114

1 KISER

2 the other nights of the week?

3 A. It may have been Valerie, it may
4 have been Tin and it may have been Theresa.

5 Q. Okay. Were they equally the other
6 managers or was -- did you have more among
7 them?

8 A. That was mainly them. Harvey would
9 also.

10 Q. Okay.

11 A. And so would David when he came
12 aboard.

13 Q. So you didn't have one manager more
14 likely to perform the bag check than any other
15 manager?

16 A. No, no.

17 Q. What about the time it took you to
18 get your -- get checked out for these other
19 managers?

20 A. Valerie was probably the longest.

21 Q. How long was that on average?

22 A. I don't know, 20 -- 15, 20 minutes,
23 up to half an hour maybe.

24 Q. Okay, what about Tin?

25 A. Tin would sometimes say, "Can't you

1 KISER

2 call another manager on duty because I'm in a
3 meeting" or "I'm busy right now" or he would
4 come and check, but it was maybe probably on
5 average 15 minutes later. I mean, it wasn't
6 like they ran over to do it.

7 Q. What about Theresa?

8 A. Theresa was usually on the earliest
9 of trying to get out of there, but she would
10 sometimes do it late when Tin was there
11 checking us out. So it would take her a while

12 because she was doing some closing procedures
13 on the first floor so she was probably on
14 average 15 to 20 minutes.

15 Q. What about Harvey?

16 A. He was -- he took a while too.

17 Q. Well, wasn't he in the department
18 with you?

19 A. He was, but Tin would go and point
20 little things out to him after we were already
21 down there, Tin was up there with him going,
22 well, this really doesn't look right, this,
23 this, this and this and, so, they were like
24 having their own little walk through while we
25 were waiting to be checked out.

C E R T I F I C A T E

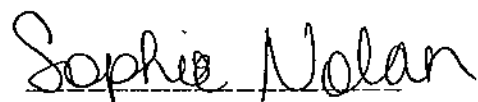
STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

I, SOPHIE NOLAN, a Notary Public
within and for the State of New York, do
hereby certify:

That JUSTIN KISER, the witness
whose deposition is herein before set forth,
was duly sworn by me and that such deposition
is a true record of the testimony given by
such witness.

I further certify that I am
not related to any of the parties to this
action by blood or marriage; and that I am in
no way interested in the outcome of this
matter.

IN WITNESS WHEREOF, I have
hereunto set my hand this 17th day of December,
2007.



SOPHIE NOLAN

EXHIBIT 53.

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA
3 SAN FRANCISCO DIVISION
4

5 ANN OTSUKA, an individual; JANIS No. C-07-02780-SI
6 KEEFE, an individual; CORINNE
7 PHIPPS, an individual; and
8 JUSTIN KISER, an individual;
9 individually and on behalf of
10 all others similarly situated,

11 Plaintiffs,

12 vs.

13 POLO RALPH LAUREN CORPORATION;
14 a Delaware Corporation; POLO
15 RETAIL, LLC, a Delaware Corporation;
16 POLO RALPH LAUREN CORPORATION, a
17 Delaware Corporation, doing business
18 in California as POLO RETAIL CORP;

19 FASHIONS OUTLET OF AMERICA, INC., a
20 Delaware Corporation and DOES 1-500,
21 inclusive,

22 Defendants.
23 /

24
25 DEPOSITION OF ROSALINDA WALLWORK

26 DATE: November 13, 2007

27 TIME: 10:02 a.m.

28 LOCATION: 1900 University Avenue
29 Fifth Floor
30 East Palo Alto, California

31 REPORTED BY: Mary E. Garland
32 Certified Shorthand Reporter
33 License Number 4721
34
35

Page 1

1 Q. Did you come to believe that the response time
2 of managers, other than yourself, was too slow to
3 requests to have bag checks performed?
4 MR. GOINES: Objection. Vague.
5 THE WITNESS: To get bag checks? I believe
6 that people got checked pretty -- I mean, in a pretty
7 reasonable time.
8 Q. BY MR. KITCHIN: The meetings in which the bag
9 check procedure was discussed, I think you said in
10 detail, did anyone suggest any different procedure to
11 follow to expedite the exit by sales associates?
12 A. I think we changed -- we changed the policy a
13 bit, where our stock supervisor would have access -- or
14 could check them out. Again, it was a complaint that
15 kept coming up. So that was one of the actions we took,
16 we gave Chris the authority to check people in and out.
17 Q. How late did Chris work on most days?
18 A. Till five.
19 Q. What time did sales associates generally leave
20 the building?
21 A. Six, 6:15, 6:30.
22 Q. So he wasn't there to check them out at the end
23 of their shift, but was there to check them out during
24 lunch breaks?
25 A. Yeah.

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1 Q. Was there any suggestion of any change in
2 procedure that dealt specifically with expediting the
3 exit of the building at the end of a sales associate's
4 work shift?
5 A. We tried so many different things. I mean, we
6 opened up the Home department for people to come back
7 in, if they were coming back from their lunches, so they
8 wouldn't have to wait. On Sundays, we let people go
9 through Polo Sport, which is -- because the rest of the
10 mall is closed. So, I mean, there were many ways to
11 enter and leave the building.
12 Q. But were there any proposed changes to the
13 practices or policies that related specifically to
14 exiting at the end of a work shift at six, 6:15, or
15 6:30?
16 A. No. Because we would have the managers back
17 there. I mean, all three managers, at any different
18 day, would be back there at the end of the night.
19 Q. At the end of a shift, did you ever go back to
20 the back door and find more than one person waiting to
21 get out of the store?
22 A. At the end of a shift? Sometimes.
23 Q. And sometimes did you go back there and there
24 were people in the back of the hallway, sitting on the
25 floor, waiting for a manager to come in?

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1 A. Not sitting on the floor, but waiting by the
2 door.
3 Q. And any of those times you came and there was
4 more than one person waiting by the door, did any of
5 the sales associates tell you how long they had been
6 waiting?
7 A. Sometimes they would say they've been waiting
8 there forever, or they've been back there, I mean, not
9 specific times, but. When I was downstairs, it would
10 literally take 15, 20 minutes to close out the
11 department. So if anybody was working in any other
12 department and, say, they left at six, and I'm closing
13 out drawers or I'm doing management functions or money
14 functions, it would take about 15 minutes for me to go
15 from the back -- or from the department to the back.
16 So if they ever waited, it would have had to
17 have been maybe 15 minutes -- 15 to 20 minutes, if, in
18 fact, they were waiting that long. Because they would
19 have to get their coat, clock out, get their bag.
20 So many a time, it just seemed exaggerated, the
21 times that they said that they were waiting back there.
22 I mean, it became so that it just -- it was just not --
23 it didn't seem right that they had been waiting there
24 the time that they said. And it was always the same
25 people over, and over, and over again.

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1 So, I mean, after awhile, it was just -- I
2 didn't believe that they had been waiting back there for
3 so long, or as long as they thought they were.
4 Q. Did anyone ever compliment you by comparing
5 your quick response time to get to the back door to
6 other managers' response time?
7 A. Yes.
8 Q. And who did they compare you to?
9 A. It depends on who it was.
10 Q. Did any sales associates tell you that certain
11 managers took a long time to let them out at the end of
12 their shift?
13 A. Yes.
14 Q. And which managers were referenced?
15 A. Valerie, sometimes.
16 Q. Any other managers that complaints were made
17 about relating to letting associates out at the end of
18 their shifts?
19 A. Sometimes Theresa. But I'm sure there were
20 complaints about me when I didn't get their quick
21 enough, so.
22 Q. Do you remember anyone specifically who said
23 something to the effect of, "You always come quick.
24 Everyone else is slow"?
25 A. Yeah. Or, yes.

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32 (Pages 122 to 125)

1 CERTIFICATION OF DEPOSITION OFFICER
2

3 I, MARY E. GARLAND, duly authorized to administer
4 oaths pursuant to Section 2093(b) of the California Code
5 of Civil Procedure, do hereby certify that the witness
6 in the foregoing deposition was duly sworn by me to
7 testify to the truth, the whole truth and nothing but
8 the truth in the within-entitled cause; that said
9 deposition was taken at the time and place therein
10 stated; that the testimony of said witness was
11 thereafter transcribed by means of computer-aided
12 transcription under my direction; that the foregoing is

13 a full, complete and true record of said testimony; and
14 that the witness was given an opportunity to read and
15 correct said deposition and to subscribe to the same.

16 I further certify that I am not of counsel or
17 attorney for either or any of the parties in the
18 foregoing deposition and caption named, nor in any way
19 interested in the outcome of the cause named in said
20 caption.

21 Executed November 26, 2007, at San Francisco,
22 California.

23 
24 MARY E. GARLAND, CSR 4721
25

EXHIBIT 54.

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA
3 SAN FRANCISCO DIVISION
4

5 ANN OTSUKA, an individual;
6 JANIS KEEFE, an individual;
7 CORINNE PHIPPS, an individual;
8 and JUSTIN KISER, an individual;
9 individually and on behalf of
10 all others similarly situated,

11 Plaintiffs,

Case No. c-07-02780-SI

12 and

13 POLO RALPH LAUREN CORPORATION,
14 a Delaware corporation; POLO
15 RETAIL, LLC, a Delaware corporation;
16 POLO RALPH LAUREN CORPORATION, a

17 Delaware corporation, doing
18 business in California as POLO
19 RETAIL CORP; FASHIONS OUTLET OF
20 AMERICA, INC., a Delaware
21 corporation; and DOES 1-500,
22 inclusive,

23 Defendants.
24
25

DEPOSITION OF THERESA CRUZ

DATE: August 20, 2007

TIME: 10:00 a.m.

LOCATION: LAW OFFICE OF PATRICK R. KITCHIN
565 Commercial Street
Fourth Floor
San Francisco, California 94111

REPORTED BY: Katy Leonard
Certified Shorthand Reporter
License Number 11599

Page 1

Golden Gate Reporting

1 And on Thursday from?	1 ten steps.
2 A. Ten to seven.	2 Q. To the corner?
3 Q. Ten to seven.	3 A. Yeah.
4 Are sales associates, to your knowledge,	4 Q. And look down?
5 ever -- strike that.	5 A. Yes.
6 Have sales associates, to your knowledge,	6 Q. Now there's a camera at the back door?
7 ever been told that they are not permitted to page a	7 A. Yes.
8 manager through the PA system to have the manager come	8 Q. How long has the camera been there?
9 down to let them out of the employee exit at the end of	9 A. I would say about April. March or April.
10 the day?	10 Q. Of this year?
11 A. No.	11 A. Yes.
12 Q. So, there's no policy that says you're not	12 Q. And why was the camera put back there by the
13 supposed to page your manager to let you out of the	13 employee exit?
14 door?	14 A. Um, because the San Francisco store has a
15 A. No. There's no policy.	15 high shortage when it comes to our inventory, and having
16 Once they're ready at the back door, they	16 loss prevention before, and then we eliminate the loss
17 page the manager, and especially if they page me, I'll	17 preventions, so the department managers and sales
18 be there in about ten seconds.	18 associates would keep an eye for some of the thieves in
19 Q. Looking at -- just looking at today, the	19 the store -- shoplifters, and because the number keeps
20 last couple of weeks, how many times a week are you the	20 going up and down, up and down, so we were one of the
21 manager that lets people out the back door at the end of	21 stores, luckily, after how many years we were able to
22 their shift?	22 get the camera.
23 A. At the end of their shift? Um, it's the	23 Q. Is the camera in place to make sure that
24 other department managers who's doing that, because I'm	24 sales associates aren't part of the problem of loss
25 the one who's closing the store.	25 prevention?
Page 78	Page 80
1 Q. So --	1 A. No. Hm-mm.
2 A. And closing the registers.	2 Q. And the camera --
3 Q. Okay. So, you'll be in your office and	3 A. Sorry. Ask me the question again.
4 you'll hear a page for a manager to the employee exit?	4 Q. Yeah. I'm wondering if the -- well, let me
5 Is that what you'll hear over the PA?	5 lay some foundation for this.
6 A. Yes.	6 Where is the camera located?
7 Q. And if you're closing the store, doing your	7 A. Next to my office in the back of the --
8 functions on the sales floor, you expect that another	8 Q. All right. So, now you have moved -- your
9 manager who's not doing those kind of functions would go	9 office has actually moved around the corner toward the
10 to the back door and let them out?	10 employee exit; is that correct?
11 A. Yes.	11 A. Yes.
12 Q. And if you've made it back to your office	12 Q. Okay. So, you're in the same section of the
13 and are running the numbers for the day --	13 hallway that the exit door is located in?
14 A. Mm-hm.	14 A. Um, if this is the exit hallway
15 Q. -- and you hear a page for the back door, is	15 (Indicating), you go ten steps. My office is just right
16 it your expectation that another manager who is not	16 there.
17 doing those kind of end-of-the-day tasks will let the	17 Q. Okay. So, you're around the corner?
18 people out the back door?	18 A. Yes.
19 A. No. Whoever is near to the back door needs	19 Q. You have to walk down the hall from the
20 to open the back door for the sales associates or the	20 employee entrance --
21 employees.	21 A. Yes.
22 Q. And from the doorway to your office, can you	22 Q. -- take a right-hand turn --
23 see the back door?	23 A. Yes.
24 A. Um, right now, yes, because there's a	24 Q. -- and then that takes you past your office
25 camera. From my office? No, I can't see. I have to go	25 and the --
Page 79	Page 81

21 (Pages 78 to 81)


Golden Gate Reporting

CERTIFICATION OF DEPOSITION OFFICER

I, KATY LEONARD, duly authorized to administer oaths pursuant to Section 2093(b) of the California Code of Civil Procedure, hereby certify that the witness in the foregoing deposition was by me sworn to testify to the truth, the whole truth and nothing but the truth in the within-entitled cause; that said deposition was taken at the time and place therein stated; that the testimony of the said witness was thereafter transcribed by means of computer-aided transcription; that the foregoing is a full, complete

and true record of said testimony; and that the witness was given an opportunity to read and correct said deposition and to subscribe the same.

I further certify that I am not of counsel or attorney for either or any of the parties in the foregoing deposition and caption named, or in any way interested in the outcome of this cause named in said caption.



KATY LEONARD, CSR 11599

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EXHIBIT 55.

Patrick R. Kitchen, Esq. (SBN. 162965)
THE LAW OFFICE OF PATRICK R. KITCHIN
565 Commercial Street, 4th Floor
San Francisco, CA 94111
415-677-9058
415-627-9076 (fax)

Attorneys for Plaintiffs
Janis Keefe, Corinne Phipps, and
Renee Davis

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

ANN OTSUKA, an individual; JANIS KEEFE,) Case No.: C-07-02780-SI
an individual; CORINNE PHIPPS, an)
individual; and RENEE DAVIS, an individual;)
individually and on behalf of all others similarly) DECLARATION OF JUDY LIU IN
situated,) SUPPORT OF PLAINTIFFS' MOTION FOR
CLASS CERTIFICATION

Plaintiffs,) Date: July 11, 2006
vs.) Time: 9:00 a.m.
POLO RALPH LAUREN CORPORATION; a) LOCATION: Courtroom 10, 19th Floor
Delaware Corporation; POLO RETAIL, LLC., a) 450 Golden Gate Avenue
Delaware Corporation; POLO RALPH) San Francisco, California 94102
LAUREN CORPORATION, a Delaware)
Corporation, doing business in California as) JUDGE: Hon. Susan Illston
POLO RETAIL CORP; and FASHIONS)
OUTLET OF AMERICA, INC.,)
Defendants.)

I, Judy Liu, declare:

1) I am a resident of Los Angeles County, California, and make this declaration based
on my personal knowledge.

1 2) I was hired to work as a Cashier in the Polo Ralph Lauren Beverly Hills Store in
2 November 2001. I was promoted to be the Assistant to a Sales Associate, a top seller for the
3 company, and eventually became a Sales Associate myself, until resigning in or around May 2005.
4 When I worked as a Sales Associate, I was told I was a full-time commissioned salesperson and
5 that I was expected to sell enough merchandise to cover my base hourly wage multiplied by a
6 certain commission rate.

7 3) When I was hired at the Beverly Hills Polo store, I was told I was not permitted to
8 tell any other employee how much I was earning.

9 4) As a Sales Associate, I worked in the Children's Department. I almost never took
10 rest breaks during my shifts in this Department, because there was not sufficient staff other than
11 myself to assist customers and maintain the inventory. Also, rest breaks were nearly impossible
12 due to the demands of customer needs, especially as that related to making sales goals. I don't
13 remember anyone telling or encouraging me to take rest breaks.

14 5) I received a copy of the Polo employee handbook. From the handbook, I
15 understood that I could not leave the Polo store at any time until a manager performed a bag check
16 on me at the employee exit. My managers communicated the same thing to me. I understood that
17 I could be fired if I did not undergo a bag check before I left the store.

18 6) I hated the fact that when I clocked out at lunch or at the end of the day, I had to
19 find a manager to check my belongings before I could leave the store. Any time we left the store,
20 we had to leave through the back exit and have a manager check us. To get to this location, we
21 had to pass through several doorways. While we were doing this, we had already checked out. I
22 usually had to call or grab a manager; they were rarely waiting and available at the back of the
23 store when I needed to check out.

24 7) At the end of the day, if I was still on the clock, manager's would tell me, "Go
25 clock out," before they would perform the bag check. Almost always after this, I would still be
26 waiting for a manager to actually to the check. Then, I would have to go back through the
27 doorways, into the body of the store. The managers were usually involved in closing down the
28

1 store and would not have portable phones with them. I had to physically find a manager who
2 would take time from their closing duties to check me out so that I could leave the store. You just
3 could not leave until someone said, "Yes."

4 8) Even after I had located a manager who could do the bag check at the employee
5 exit, I usually waited longer for the manager to actually arrive and perform the search. There were
6 about 60 employees on each shift, and about 2-5 managers also on the shift. Given these staffing
7 numbers, many other employees were often waiting at the rear or "valet" door with me.
8 Sometimes, we exited through the locker room door, where we still were usually required to wait
9 for a manager to meet us and check us out. As a whole, I waited during 90% of my shifts to be
10 checked out. About 50% of the time I waited to be checked out after clocking out at the end of a
11 shift. On average, I waited from 10 to 15 minutes after I had clocked out to be checked and
12 approved to leave. On occasion, I did wait longer than this. I was not paid for any of this waiting
13 time.

14
15 Signed under penalty of perjury under the laws of the State of California. Executed at Los
16 Angeles, California, on May ____, 2008.

17
18 _____
19 Judy Liu
20
21
22
23
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28

8) Even after I had located a manager who could do the bag check at the employee exit, I usually waited longer for the manager to actually arrive and perform the search. There were about 60 employees on each shift, and about 2-5 managers also on the shift. Given these staffing numbers, many other employees were often waiting at the rear or "valet" door with me. Sometimes, we exited through the locker room door, where we still were usually required to wait for a manager to meet us and check us out. As a whole, I waited during 90% of my shifts to be checked out. About 50% of the time I waited to be checked out after clocking out at the end of a shift. On average, I waited from 10 to 15 minutes after I had clocked out to be checked and approved to leave. On occasion, I did wait longer than this. I was not paid for any of this waiting time.

Signed under penalty of perjury under the laws of the State of California. Executed at Los Angeles, California, on May 27, 2008.

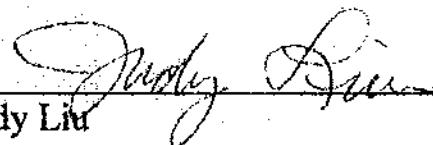

Judy Liu

EXHIBIT 56.

1 IN THE UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA
3 SAN FRANCISCO DIVISION
4

5 ANN OTSUKA, an individual;)
6 JANIS KEEFE, an individual,)
7 CORINNE PHIPPS, an)
8 individual; and RENEE DAVIS,)
9 an individual; individually)
10 and on behalf of all others)
11 similarly situated,)
12 Plaintiffs,)

13 - vs -) No. C-07-02780-SI
14)

15 POLO RALPH LAUREN CORPORATION;)
16 a Delaware Corporation; POLO)
17 RETAIL, LLC., a Delaware)
18 Corporation, POLO RALPH LAUREN)
19 CORPORATION, a Delaware)
20 Corporation, doing business in)
21 California as POLO RETAIL)
22 CORP; FASHIONS OUTLET OF)
23 AMERICA, INC., a Delaware)
24 Corporation,)
25 Defendants.)

26 The deposition of HARVEY RESNICK, called
27 by the Plaintiffs for examination, pursuant to
28 subpoena and pursuant to the Federal Rules of
29 Civil Procedure for the United States District
30 Courts pertaining to the taking of depositions,
31 taken before Cynthia J. Conforti, Certified
32 Shorthand Reporter, at Suite 2500, 77 West Wacker
33 Drive, Chicago, Illinois, commencing at the hour
34 of 10:09 a.m. on the 23rd day of April, A.D.,
35 2008.

Page 1

Golden Gate Reporting

<p>1 spent there was the holiday time, so that's -- it 2 seems like that was a lot of the workday. 3 Q. Did you ever have any discussions with any 4 of the other managers at the Polo store about the 5 loss prevention inspection wait time? 6 A. I don't recall actually having any formal 7 discussions about it. I'm sure that just in 8 general conversation in passing it was probably 9 mentioned. 10 Q. Do you recall anyone ever discussing an 11 employee's complaints about the amount of time 12 that they were required to wait before a loss 13 prevention inspection occurred? 14 A. Specific conversation? No. 15 Q. Do you have a general recollection of 16 talking with other managers within the store about 17 that process? 18 A. There was I think some conversation. It's 19 hard for me to say. It's been a while obviously, 20 but, you know, it certainly was something that was 21 brought up from time to time in conversation 22 because the employees were unhappy about it, so we 23 heard about it. 24 We might have been told or asked to make 25 sure that we're responsive to their calls which</p>	<p>1 Q. And typically would that manager then walk 2 you to the door? 3 A. Yes, yeah. 4 Q. Were there ever times that you were 5 waiting at the book door for a loss prevention 6 inspection? 7 A. I'm sure I had to wait from time to time 8 but, you know, just to me as manager it wasn't a 9 big issue. 10 You know, I was required to be there until 11 the store was closed pretty much anyways. Seldom 12 left before other managers left, so it was often 13 myself and whoever else was closing the store, we 14 left the store at the same time. 15 Q. Were there occasions that you recall when 16 the timekeeping system at the Polo store in San 17 Francisco was closed down before sales associates 18 had clocked out at the end of the day? 19 A. I can remember on a few occasions when 20 Theresa Cruz would effectively clock people out at 21 a certain time. I think the reason it was done 22 was you couldn't go through the shutdown process 23 until everybody had clocked out. 24 Q. On those occasions when Theresa Cruz 25 clocked people out, in that situation, do you know</p>
Page 46	Page 48
<p>1 isn't always the easiest thing to do. 2 Q. Do you have a specific recollection of any 3 discussion with Tin Hua where he indicated that it 4 was important for you or other managers to be 5 responsive to calls for loss prevention 6 inspections? 7 A. No specific recollection. 8 Q. Were you required to undergo a loss 9 prevention when you left the building? 10 A. Yes. 11 Q. Who would perform that? 12 A. Another manager. 13 Q. And typically did that happen when you or 14 at least one other manager were leaving together? 15 A. It could. I mean, you know, if you're the 16 last two people out of the building you basically 17 checked each other and assumed to have been 18 responsible, yes. 19 Q. And if you weren't the last two people in 20 the building, how would you arrange for a loss 21 prevention inspection? 22 A. I'd ask for somebody to check me out. 23 Q. Would you typically do that in person with 24 another manager? 25 A. Yeah.</p>	<p>1 how she determined when specific individuals in 2 different departments quit working for that day? 3 A. You know, if there were people who were 4 still actually physically working in the store, 5 they were clocked out at whatever that moment was. 6 If it was 8:15 or 8:45 or whatever it 7 might have been, and it was -- if you wanted to do 8 the shutdown process, then she would have to clock 9 them out, so everybody would be clocked out at 10 that time. It was not possible to, I don't think, 11 to push it ahead to if it was 8:45 to say that 12 they clocked out at 9 o'clock. I don't think you 13 could do that. I'm not positive but I think that 14 was the case. 15 Q. Did you ever hear of any manager including 16 Theresa Cruz do an adjustment to the time records 17 in that situation on the following day? 18 A. Well, there was a way to do that, and it 19 may have been done from time to time. I don't 20 know of specific instances, but I know it could 21 have been done. It's possible that if somebody 22 said, you know, "I was here way past 8:45," then 23 they might have adjusted it. 24 Q. Did any sales associate ever come to you 25 and say, "I received my paycheck, and it doesn't</p>
Page 47	Page 49

13 (Pages 46 to 49)

<p>1 five-minute break. 2 (Whereupon a recess was had from 3 2:04 p.m. to 2:10 p.m.) 4 REDIRECT EXAMINATION 5 BY MR. KITCHIN: 6 Q. Just a couple clarification questions 7 follow-up. 8 Did you ever respond to a call or a page 9 for the employee exit that you responded to to 10 conduct the inspection to find that Tin Hua was in 11 his office on the telephone or otherwise engaged? 12 A. It's highly possible, but I can't say for 13 certain. I don't remember a specific incident. 14 Q. Did you ever respond to a call or page to 15 find Theresa Cruz in her office engaged in 16 something other than -- 17 A. Not to my knowledge. It was not uncommon 18 at the end of the workday when we were going 19 through that process for Tin to be talking to a 20 manager from one of the other stores as I recall. 21 So if that -- I mean if that's what you're 22 referencing where he did do some business phone 23 call at that time of the day after hours, in fact 24 there was a time when he was responsible for the 25 Hawaii stores or something like that that he may</p> <p>Page 126</p>	<p>1 Same question with respect to Valerie 2 Harris. Ever hear any complaint that she was not 3 very responsive to calls? 4 A. Yes. 5 Q. Do you remember who you heard that from? 6 A. No. 7 Q. Now, Mr. Goines asked you some questions 8 about how long it took you at times to get from 9 your department to the back door. 10 On those occasions when you heard a page 11 but you didn't respond to it knowing that there 12 was another manager closer, did you ever learn on 13 any of those occasions how long the individuals 14 had been waiting at the back door before they were 15 inspected and released? 16 A. If I follow what you're saying is that I 17 didn't respond to a page and ultimately later did? 18 Q. No -- 19 A. -- and somebody else did not and they 20 waited a long time? 21 Q. No. Let me ask it this way: 22 There were occasions when you heard a page 23 for a manager to the back door -- 24 A. Yes. 25 Q. -- when you didn't respond to that page.</p> <p>Page 128</p>
<p>1 have been on the phone and not been able to come 2 to the door. 3 Q. Did you ever hear any complaints by anyone 4 at Polo about Tin Hua's responsiveness or lack of 5 responsiveness to pages for loss prevention 6 inspections? 7 A. No. 8 Q. Did you ever hear anyone complain about 9 Theresa Cruz' lack of responsiveness to pages or 10 calls for loss prevention inspections? 11 A. In that sort of general conversation way, 12 that, you know, as I said earlier, a lot of things 13 were said by people on the sales floor in retail 14 stores, and it wasn't uncommon for the staff to be 15 a little more critical of Theresa than they were 16 of Tin. 17 Q. You have a general recollection of one or 18 more people complaining about Theresa Cruz' 19 failure to promptly respond to requests to perform 20 loss prevention inspections? 21 A. I don't have a specific recollection. 22 Q. Do you have a general recollection of 23 that -- 24 A. Yeah. 25 Q. -- that type of discussion?</p> <p>Page 127</p>	<p>1 A. That's correct, yes. 2 Q. And sometimes you heard more than one page 3 for a manager to the back door on a single 4 evening, correct? 5 A. Yes. 6 Q. And on those occasions when you didn't go 7 down to do the loss prevention inspection but 8 apparently someone else did, did you ever learn 9 how long those individuals claimed that they had 10 waited for a loss prevention inspection? 11 A. Again, this would be a generalization. 12 There was always remarks being made, "Oh, 13 we waited 10 minutes, we waited five," that sort 14 thing, but did anybody specifically say, "I waited 15 20 minutes tonight for Theresa to come to the 16 door," no, I don't think so. 17 Q. Individuals. Okay. 18 Was there a general kind of perspective 19 that managers developed at the San Francisco Polo 20 store with respect to loss prevention inspections 21 that it was too burdensome to be running back to 22 the back door to let a single individual out, now 23 two people out, now five people out, now one 24 person out? 25 A. Sure. It was a feeling that people had,</p> <p>Page 129</p>

33 (Pages 126 to 129)

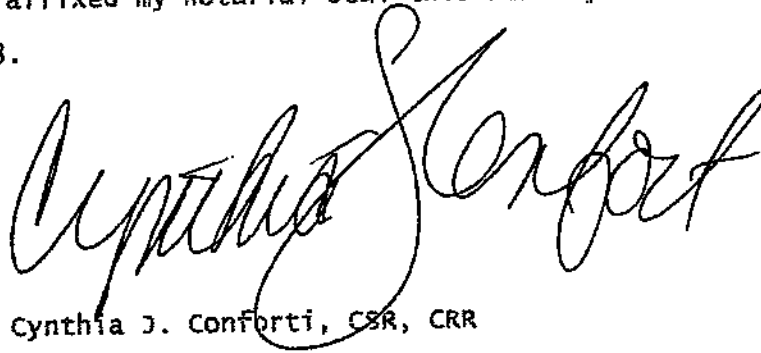
certcert

1 I further certify that the signature to the
2 foregoing deposition was not waived by counsel for
3 the respective parties.

4 I further certify that the taking of this
5 deposition was pursuant to subpoena, and that
6 there were present at the deposition the attorneys
7 hereinbefore mentioned.

8 I further certify that I am not counsel for
9 nor in any way related to the parties to this
10 suit, nor am I in any way interested in the
11 outcome thereof.

12 IN TESTIMONY WHEREOF: I have hereunto set my
13 hand and affixed my notarial seal this 7th day of
14 May, 2008.

15
16
17
18
19 

20 Cynthia J. Conforti, CSR, CRR
21 Notary Public, Cook County, Illinois

22 CSR License No. 084-003064
23
24
25

EXHIBIT 57.

Patrick R. Kitchen, Esq. (SBN. 162965)
THE LAW OFFICE OF PATRICK R. KITCHIN
565 Commercial Street, 4th Floor
San Francisco, CA 94111
415-677-9058
415-627-9076 (fax)

Attorneys for Plaintiffs
Janis Keefe, Corinne Phipps, and
Renee Davis

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

ANN OTSUKA, an individual; JANIS KEEFE,) Case No.: C-07-02780-SI
an individual; CORINNE PHIPPS, an)
individual; and RENEE DAVIS, an individual;)
individually and on behalf of all others similarly)
situated,) DECLARATION OF ASYA SOLOIAN IN
SUPPORT OF PLAINTIFFS' MOTION FOR

CLASS CERTIFICATION

Plaintiffs,
vs.

Date: July 11, 2006
Time: 9:00 a.m.

POLO RALPH LAUREN CORPORATION; a) LOCATION: Courtroom 10, 19th Floor
Delaware Corporation; POLO RETAIL, LLC.,) 450 Golden Gate Avenue
a Delaware Corporation; POLO RALPH) San Francisco, California 94102
LAUREN CORPORATION, a Delaware)
Corporation, doing business in California as) JUDGE: Hon. Susan Illston
POLO RETAIL CORP; and FASHIONS)
OUTLET OF AMERICA, INC.,)

Defendants.

I, Asya Soloian, declare:

1) I am a resident of San Francisco County, California, and make this declaration
based on my personal knowledge.

1 2) Between approximately 2000 and 2003, I worked as a Sales Associate in the
2 Women's Department of the San Francisco Polo Ralph Lauren store located at 90 Post Street, San
3 Francisco, California. Based on my best recollection, I was hired as a full-time employee. I was
4 told I was a commissioned salesperson and that I was expected to sell enough merchandise to
5 cover my base hourly wage multiplied by a certain commission rate.

6 3) When I was hired at the San Francisco Polo store, I was told I was not permitted to
7 tell any other employee how much I was earning.

8 4) Based on my best recollection, I was unable to sell enough merchandise to cover
9 my base hourly wage about 40% of the time. On several occasions, I did not sell ½ of my sales
10 target during my employment with Polo.

11 5) On many occasions I worked more than 8 hours in one day or more than 40 hours in
12 one week, especially if you consider all the time I was required to remain inside the store after I
13 had clocked out for the day. I was not paid premium overtime for these hours.

14 6) On many occasions I was not able to take one or more of my rest breaks during my
15 work shifts. I estimate that I missed two or more rest breaks per week on average because my
16 department was too busy for me to take breaks and because I was discouraged by managers from
17 taking rest breaks.

18 7) I was instructed by my managers and in the Polo employee handbook that I could
19 not leave the Polo store at any time unless a manager performed a bag check on me at the
20 employee exit. I understood I could be fired if I did not undergo a bag check before I left the store.

21 8) I was instructed to clock out, when leaving for lunch or at the end of the day, and
22 then required to find a manager who could do the bag check at the employee exit. On average, I
23 estimate that I had to wait 10 minutes after I had clocked out before I was permitted to leave the
24 building. I often had to stand at the employee exist with several other sales associates waiting for
25 a manager to perform the mandatory bag checks. I was frustrated and upset about having to wait
26 inside the Polo store after my shift was over, and, on occasion, expressed my frustrations to
27 managers. I was not paid for any of this waiting time.
28

1
2 Signed under penalty of perjury under the laws of the State of California. Executed at San
3 Francisco, California, on May 16, 2008.

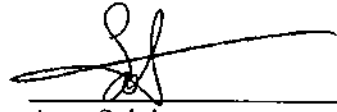
4
5 
6 _____
7 Asya Soloian
8
9
10
11
12
13

EXHIBIT 58.

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA
3 SAN FRANCISCO DIVISION
4

5 ANN OTSUKA, an individual; JANIS No. C-07-02780-SI
6 KEEFE, an individual; CORINNE
7 PHIPPS, an individual; and
8 JUSTIN KISER, an individual;
9 individually and on behalf of
10 all others similarly situated,

11 Plaintiffs,
12 vs.

13 POLO RALPH LAUREN CORPORATION;
14 a Delaware Corporation; POLO
15 RETAIL, LLC, a Delaware Corporation;
16 POLO RALPH LAUREN CORPORATION, a
17 Delaware Corporation, doing business
18 in California as POLO RETAIL CORP;

19 FASHIONS OUTLET OF AMERICA, INC., a
20 Delaware Corporation and DOES 1-500,
21 inclusive,

22 Defendants.
23 /

24 DEPOSITION OF ROSALINDA WALLWORK
25

26 DATE: November 13, 2007

27 TIME: 10:02 a.m.

28 LOCATION: 1900 University Avenue
29 Fifth Floor
30 East Palo Alto, California

31 REPORTED BY: Mary E. Garland
32 Certified Shorthand Reporter
33 License Number 4721
34

35 Page 1

<p>1 day. 2 Q. Have you seen the Web site that my office 3 established for this case? 4 A. No. 5 Q. At around that time when you were having 6 discussions with Mr. Hua and Valerie Harrison, had you 7 seen a copy of the complaint in the lawsuit? 8 A. No. 9 Q. Have you ever seen a copy of the complaint? 10 A. No. 11 Q. At the time when you had the first discussion 12 where you talked about the individuals who had brought 13 the lawsuit -- 14 A. Yes. 15 Q. -- did you have a discussion relating to what 16 kinds of claims were being made in the lawsuit? 17 A. Yes. 18 Q. And if you can ferret this out, at that time, 19 what was your understanding of the claims that were 20 being made in the lawsuit? 21 A. I didn't understand a lot of what it meant. To 22 me, the discussions were surrounding the fact that I 23 probably should have mentioned that I had heard that 24 Justin had been manipulating the clock. 25 But I just didn't think, again, that it was</p>	<p>1 lunch, so I don't remember in my department in 2 particular having to wait for the door. 3 Q. So you would typically leave at the same time 4 as your crew? 5 A. They would all leave together, and I would be 6 there to get the door. 7 Q. And you would stay then? 8 A. We would fold together, so we'd exit pretty 9 much together. I wouldn't exit, but we would come down, 10 and they would grab their stuff, and I would thank them, 11 and they would leave. 12 Q. And then you would stay, generally? 13 A. Yes. 14 Q. So would you generally stay beyond the time 15 that your department sales associates had left? 16 A. Yes. 17 Q. Did either Mr. Hua or Valerie Harrison make any 18 specific comments about what they believed to be the 19 merits of the claim relating to the loss prevention 20 inspections? 21 A. If they said anything, I don't remember 22 specifically what they would -- if they said anything, 23 I mean. 24 Q. Did either of them, during any of these 25 meetings or conversations about the lawsuit, say that</p>
<p>Page 22</p>	<p>Page 24</p>
<p>1 important, because I had never witnessed it. So I never 2 brought it to light. And those discussions were mainly 3 about some of the things that I probably should have 4 mentioned, you know, early on. 5 Q. Well, I want to talk about those, but the 6 question I have right now is: Did you have any 7 discussions during that first meeting about what kinds 8 of claims were being made? 9 A. Specifically, I don't remember. I mean, that's 10 what I remember discussing with them when it was first 11 brought to light. 12 Q. Do you remember having discussions during any 13 of the meetings that you had with Mr. Hua and/or Valerie 14 Harrison about the plaintiffs' claims that they had been 15 falsely imprisoned within the store? 16 A. Yes. 17 Q. And what do you recall about the discussions 18 where the claim of false imprisonment was mentioned or 19 discussed? 20 A. For me personally, that didn't really mean a 21 lot. Because our department left together in the 22 evenings, so I never felt like anybody in that 23 department had to wait for the back door. 24 Or when they would go to lunch, it's normal -- 25 it would normally be around this time that I would go to</p>	<p>1 the wait time to exit the store was excessive or took 2 too long on some occasions? 3 A. Seriously, that was not a topic that we would 4 really discuss. 5 Q. Was there any -- go ahead. 6 A. Maybe, at the maximum, five, ten minutes, you 7 would wait by the door when you're coming back from 8 lunch, if there were no managers in the back. But, I 9 mean, we really didn't discuss it. 10 Q. Did Mr. Hua, after learning of the lawsuit, 11 make any comments to you about the need to improve or 12 change the loss prevention search protocol or process? 13 A. We had a meeting surrounding that, yes. That 14 we had to have a manager in the back room to get the 15 door at all times. 16 Q. And who was at that meeting, if you can recall? 17 A. We all were; Theresa Cruz, Tin, Valerie, 18 myself. I think, at the time, we had somebody -- we had 19 another manager, but I don't remember exactly. 20 Q. Did that meeting take place after the lawsuit 21 had been filed? 22 A. Maybe not right away, but sometime thereafter. 23 Q. And how long did that meeting last, or at least 24 the portion of that meeting where one of the topics of 25 conversation was the loss prevention inspection</p>
<p>Page 23</p>	<p>Page 25</p>

7 (Pages 22 to 25)

<p>1 procedure?</p> <p>2 A. It was brief. I mean, it -- we didn't surround</p> <p>3 the whole meeting around it. It was just something that</p> <p>4 was mentioned, we put a system in place, and we moved on</p> <p>5 to the next topic.</p> <p>6 Q. Could you describe the new system that you</p> <p>7 referred to?</p> <p>8 A. We gave the stock manager keys. And,</p> <p>9 basically, he was in the back most of the time, so he</p> <p>10 was allowed keys to open and close the door.</p> <p>11 And even prior to that, we received shipments</p> <p>12 between one or 12 and four, so that door was constantly</p> <p>13 open, anyway, so. But now he had keys and it would --</p> <p>14 he could open the door, close the door.</p> <p>15 Q. And was he, prior to that change in policy --</p> <p>16 MR. GOINES: Objection -- oh.</p> <p>17 Q. BY MR. KITCHIN: -- was he permitted to --</p> <p>18 This is the? I'm sorry. Loading? What --</p> <p>19 A. The shipping department.</p> <p>20 Q. Shipping department manager? Prior to -- let</p> <p>21 me start a new question, clean it up.</p> <p>22 A. Okay.</p> <p>23 Q. Prior to the meeting in which loss prevention</p> <p>24 inspection procedures were discussed, did the shipping</p> <p>25 department manager have the authority to conduct loss</p>	<p>1 Q. And who made comments about the waiting time to</p> <p>2 leave the building?</p> <p>3 A. Well, there were no comments made about it, but</p> <p>4 there were some people that have said, "I've had to</p> <p>5 wait," you know, "for more than five minutes." So, I</p> <p>6 mean, it wasn't really discussed in great detail, that I</p> <p>7 remember.</p> <p>8 Q. Were there other topics discussed during the</p> <p>9 meeting where the loss prevention inspection issue was</p> <p>10 discussed relating to the claims in the lawsuit?</p> <p>11 A. No. We discussed putting a system in place so</p> <p>12 that people can come in and out, you know, perhaps</p> <p>13 quicker than, you know, we were getting the door.</p> <p>14 Like I said, it wasn't a meeting surrounding</p> <p>15 that. It was something we talked about, put the system</p> <p>16 in place, and moved on to the next topic. We didn't</p> <p>17 have a managers' meeting surrounding the lawsuit.</p> <p>18 Q. Prior to the meeting that we're discussing</p> <p>19 where loss prevention inspections was discussed, had you</p> <p>20 had any other meetings relating to any concerns about</p> <p>21 wait time to exit the building?</p> <p>22 A. No.</p> <p>23 Q. So that topic, based on your best recollection,</p> <p>24 was never discussed at any manager meeting prior to the</p> <p>25 meeting that we've been discussing?</p>
Page 26	Page 28
<p>1 prevention inspections of employees leaving the store?</p> <p>2 A. No.</p> <p>3 Q. Did the shipping manager have keys to the back</p> <p>4 door to turn the alarm off?</p> <p>5 A. Yes.</p> <p>6 Q. Earlier, I believe you testified that, after</p> <p>7 the meeting, he was given keys.</p> <p>8 A. Okay. He had keys, he was just not allowed to</p> <p>9 check people in and out.</p> <p>10 Q. I sec. Was the shipping manager present at</p> <p>11 this meeting where loss prevention inspections were</p> <p>12 discussed?</p> <p>13 A. No.</p> <p>14 Q. What was the shipping manager's name?</p> <p>15 A. Oh. Chris. I don't remember his last name.</p> <p>16 Q. Do you know if he's still employed by Polo?</p> <p>17 A. Hmm. No, he is not.</p> <p>18 Q. And where does he work now?</p> <p>19 A. I have no idea.</p> <p>20 Q. During the meeting that you referred to where</p> <p>21 loss prevention inspections were discussed, did anyone</p> <p>22 make any comments at the meeting that, prior to that</p> <p>23 meeting, people were having to wait to exit the</p> <p>24 building?</p> <p>25 A. Yes.</p>	<p>1 A. No.</p> <p>2 Q. I'm going to get back to the loss prevention</p> <p>3 inspection --</p> <p>4 A. Sure.</p> <p>5 Q. -- but I want to move back now to the other</p> <p>6 discussions that you described or identified between</p> <p>7 you, and Mr. Hua, and Valerie Harrison.</p> <p>8 A. Mm-hm.</p> <p>9 Q. I can't remember the number you said, but it</p> <p>10 was more than one meeting where the lawsuit was</p> <p>11 discussed; correct?</p> <p>12 A. It was not a meeting. It was comments being</p> <p>13 made as we're closing down shop or making our final</p> <p>14 notes. And for me personally, mainly, was the</p> <p>15 discussion surrounding the time clock situation that I</p> <p>16 never brought to light. So that is really the most that</p> <p>17 I remember discussing this lawsuit. In fact, all of</p> <p>18 this is just shocking to me, so.</p> <p>19 That was the only serious conversation I had</p> <p>20 with the management team about the whole thing that I'd</p> <p>21 read in the paper, was that I probably should have</p> <p>22 mentioned that Justin was doing something weird with the</p> <p>23 time clock, but I didn't really know what it was. And</p> <p>24 after I was rest assured -- I was told that if he was</p> <p>25 doing something strange, that we would probably know,</p>
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<p>1 A. I don't think with Justin, it was a specific 2 time, but he would claim that he waited back there for 3 some time. 4 Q. And did you believe that he was lying when he 5 told you that? 6 A. I didn't believe that he was lying. But at 7 that time, I worked in the same department that he did, 8 so it was very hard for me to get the door probably as 9 quickly as I would have got it for Corinne or whoever 10 was there. So I never really knew exactly how long he 11 waited back there. I didn't assume that he was lying. 12 I got to the door as quickly as I could when I was 13 upstairs. 14 Q. Did Janis Keefe ever complain to you that it 15 took too long for her to have a bag check performed so 16 she could get out of the store at the end of her shift? 17 A. No. 18 Q. Did she ever complain to you that she waited 19 too long to get out the back door when she was going to 20 lunch? 21 A. No. 22 Q. And did she ever complain to you that she 23 waited too long to come back into the store at the end 24 of a lunch break? 25 A. Yes.</p>	<p>1 that would happen. 2 Q. Did any other sales associates ever tell you 3 that they had been waiting for what they thought was an 4 unreasonable period of time to leave the building? 5 A. Yes, there were times. 6 Q. And how many individuals, approximately, other 7 than the three plaintiffs we've talked about, complained 8 to you that they had been waiting what they believed to 9 be an unreasonable time to leave the store? 10 MR. GOINES: Objection. Mischaracterizes her 11 testimony. She never said one of them complained about 12 waiting to leave the store; she only said about getting 13 back in from lunch or breaks. You can ask her again, 14 but that's what I recall the testimony. 15 Q. BY MR. KITCHIN: Did any of the three 16 plaintiffs that you talked about complain to you that it 17 took too long for them to get out of the store? 18 A. No. Because I happened to work with most of 19 them, so we would leave together or at the same time. 20 So getting out of the store -- 21 Q. So Corinne Phipps didn't complain to you on a 22 number of occasions that it took too long for her to get 23 out of the store? 24 A. I mean, it's possible. Most of the encounters 25 I had with them was trying to get back in.</p>
<p style="text-align: right;">Page 114</p> <p>1 Q. And how many times did she complain to you 2 about that? 3 A. I'm not going to say many with her, because I 4 didn't work with her very long. So maybe a few times, a 5 couple times. 6 Q. And did she tell you how long she had been 7 waiting outside to come into the store? 8 A. Yeah. 9 Q. How long did she tell you she'd been waiting? 10 A. I think more than 20 minutes was the magic 11 number that I heard a lot. More than 20 minutes. 12 Q. On the couple or few occasions -- 13 A. Yeah. 14 Q. -- she said 20 minutes? 15 And did you think that she was lying to you? 16 A. I can't say that she was lying. Again, I can't 17 -- I can't imagine a 20-minute wait at that door, 18 regardless. Because we have shipments that were 19 processed back there. I mean, the door, there was so 20 much movement back there, that 20 minutes would seem 21 unlikely. Because people were coming and going on their 22 breaks. So 20 minutes with that door not being opened, 23 or some sort of shipment being delivered, or FedEx 24 coming through, it just -- to me, it just -- I didn't 25 think she was lying, but it just seemed unlikely that</p> <p style="text-align: right;">Page 115</p>	<p style="text-align: right;">Page 116</p> <p>1 Q. You testified earlier that Corinne Phipps would 2 either compliment you or chastise you, depending on 3 whether she had something going on. 4 A. Right. 5 Q. Now, was that going out or in? 6 A. It could be -- it could be both; it could be 7 coming in or out. 8 Q. Did she complain to you that it took too long 9 to get out of the store on any occasion? 10 A. Yes. 11 Q. And were those the occasions you talked about 12 before, when she complained that she had been waiting 13 too long to get out of the store? 14 A. It's possible. 15 MR. GOINES: Don't guess or speculate. 16 THE WITNESS: Okay. 17 MR. GOINES: Tell him what you recall. 18 THE WITNESS: Yes. 19 Q. BY MR. KITCHIN: So did any sales associates, 20 other than the named plaintiffs in this case, complain 21 about the wait time to get out of the store? 22 A. Yes. 23 Q. And how many individuals complained about 24 having to wait too long to get out of the store? 25 A. Maybe just two more.</p> <p style="text-align: right;">Page 117</p>

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<p>1 Q. And who were those two others?</p> <p>2 A. Catherine Lang was one, and -- maybe just the</p> <p>3 one. That's the only other person I remember.</p> <p>4 Q. And what did Catherine Lang tell you about</p> <p>5 waiting at the employee exit?</p> <p>6 A. That she needed to be checked out quickly</p> <p>7 because she had dinner plans or --</p> <p>8 Q. And did she complain that she had been waiting</p> <p>9 for some period of time that she thought was</p> <p>10 unreasonable?</p> <p>11 A. Not specifically.</p> <p>12 Q. Did she complain that she had been waiting too</p> <p>13 long?</p> <p>14 A. Yes.</p> <p>15 Q. She didn't tell you how long?</p> <p>16 A. No.</p> <p>17 Q. Did you believe that she had been waiting what</p> <p>18 she thought was an unreasonable amount of time?</p> <p>19 A. No.</p> <p>20 Q. Did any sales associates, other than the three</p> <p>21 named plaintiffs we've talked about, complain to you</p> <p>22 that they had been waiting for a period of time that</p> <p>23 they thought was unreasonable to get back into the store</p> <p>24 after a break?</p> <p>25 A. I mean, at times, but not on a regular basis,</p>	<p>1 A. Not unreasonable, but I believe that they had</p> <p>2 been waiting.</p> <p>3 Q. Did you ever report to Tin Hua that you had</p> <p>4 received these complaints from employees about the time</p> <p>5 that they were waiting to go out of or come back into</p> <p>6 the store?</p> <p>7 A. Yes.</p> <p>8 Q. And how many times did you complain to Tin Hua</p> <p>9 about that?</p> <p>10 A. Hmm, a few times.</p> <p>11 Q. And were you, essentially, making a complaint</p> <p>12 on behalf of these employees, or were you just reporting</p> <p>13 what you had been told by these employees?</p> <p>14 A. Reporting back, to make sure that the other</p> <p>15 managers were coming to the door, as well.</p> <p>16 Q. You were one of the best in the store at</p> <p>17 responding to the back door; isn't that true?</p> <p>18 A. I believe so.</p> <p>19 Q. You would go there when other managers were in</p> <p>20 the store but didn't go to the back door; is that</p> <p>21 correct?</p> <p>22 A. Yes.</p> <p>23 Q. Were there specific managers that you came to</p> <p>24 believe were just really ignoring the back door, despite</p> <p>25 requests from employees?</p>
Page 118	Page 120
<p>1 like the few people that are on this sheet.</p> <p>2 Q. And can you give me estimate of the number of</p> <p>3 people who complained directly to you that they felt</p> <p>4 that they had been required to wait outside for some</p> <p>5 period that they felt was unreasonable?</p> <p>6 A. Maybe just a couple.</p> <p>7 Q. And do you remember who those people were?</p> <p>8 A. Just Catherine Lang was one of them. I can't</p> <p>9 -- I don't remember her name. There was another person</p> <p>10 that worked there that I heard that a lot from.</p> <p>11 Q. And did anyone ever complain directly to you,</p> <p>12 that you haven't talked about yet, that they felt that</p> <p>13 they were having to wait too long to leave the building</p> <p>14 for their lunch break?</p> <p>15 A. At times, yes.</p> <p>16 Q. And how many people do you think complained</p> <p>17 about that?</p> <p>18 A. It just -- the same two.</p> <p>19 Q. That would be Catherine --</p> <p>20 A. Catherine. There was another woman there, I</p> <p>21 don't remember her name.</p> <p>22 Q. And did you believe them when they told you</p> <p>23 that they had been waiting for what they believed was an</p> <p>24 unreasonable amount of time to get out of the store at</p> <p>25 their lunch break?</p>	<p>1 A. I just always thought that we can make the</p> <p>2 effort that I was making to get the back door. I don't</p> <p>3 think they were being neglectful or --</p> <p>4 Q. You felt they should respond more timely to</p> <p>5 requests to do the bag checks?</p> <p>6 A. At times, yeah.</p> <p>7 Q. When you reported the complaints on these few</p> <p>8 occasions to Tin Hua about the entrance and exit issues</p> <p>9 raised by these sales associates, did he respond in any</p> <p>10 way?</p> <p>11 A. He did.</p> <p>12 Q. And what did he respond?</p> <p>13 A. He would ask Valerie Harrison and Theresa Cruz</p> <p>14 to get more involved in the process that goes on with</p> <p>15 the back door.</p> <p>16 Q. Did he tell you that he would speak to Valerie</p> <p>17 Harrison and Theresa Cruz about responding to the back</p> <p>18 door?</p> <p>19 A. No. We would discuss it in meetings.</p> <p>20 Q. In how many meetings, where there were other</p> <p>21 managers in the meeting, was the issue of entering and</p> <p>22 exiting the store discussed?</p> <p>23 A. In the time that I was there, it was discussed</p> <p>24 in huge detail probably more than three times in a</p> <p>25 meeting.</p>
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<p>1 Q. And who were those two others?</p> <p>2 A. Catherine Lang was one, and -- maybe just the</p> <p>3 one. That's the only other person I remember.</p> <p>4 Q. And what did Catherine Lang tell you about</p> <p>5 waiting at the employee exit?</p> <p>6 A. That she needed to be checked out quickly</p> <p>7 because she had dinner plans or --</p> <p>8 Q. And did she complain that she had been waiting</p> <p>9 for some period of time that she thought was</p> <p>10 unreasonable?</p> <p>11 A. Not specifically.</p> <p>12 Q. Did she complain that she had been waiting too</p> <p>13 long?</p> <p>14 A. Yes.</p> <p>15 Q. She didn't tell you how long?</p> <p>16 A. No.</p> <p>17 Q. Did you believe that she had been waiting what</p> <p>18 she thought was an unreasonable amount of time?</p> <p>19 A. No.</p> <p>20 Q. Did any sales associates, other than the three</p> <p>21 named plaintiffs we've talked about, complain to you</p> <p>22 that they had been waiting for a period of time that</p> <p>23 they thought was unreasonable to get back into the store</p> <p>24 after a break?</p> <p>25 A. I mean, at times, but not on a regular basis,</p>	<p>1 A. Not unreasonable, but I believe that they had</p> <p>2 been waiting.</p> <p>3 Q. Did you ever report to Tin Hua that you had</p> <p>4 received these complaints from employees about the time</p> <p>5 that they were waiting to go out of or come back into</p> <p>6 the store?</p> <p>7 A. Yes.</p> <p>8 Q. And how many times did you complain to Tin Hua</p> <p>9 about that?</p> <p>10 A. Hmm, a few times.</p> <p>11 Q. And were you, essentially, making a complaint</p> <p>12 on behalf of these employees, or were you just reporting</p> <p>13 what you had been told by these employees?</p> <p>14 A. Reporting back, to make sure that the other</p> <p>15 managers were coming to the door, as well.</p> <p>16 Q. You were one of the best in the store at</p> <p>17 responding to the back door; isn't that true?</p> <p>18 A. I believe so.</p> <p>19 Q. You would go there when other managers were in</p> <p>20 the store but didn't go to the back door; is that</p> <p>21 correct?</p> <p>22 A. Yes.</p> <p>23 Q. Were there specific managers that you came to</p> <p>24 believe were just really ignoring the back door, despite</p> <p>25 requests from employees?</p>
<p>Page 118</p>	<p>Page 120</p>
<p>1 like the few people that are on this sheet.</p> <p>2 Q. And can you give me estimate of the number of</p> <p>3 people who complained directly to you that they felt</p> <p>4 that they had been required to wait outside for some</p> <p>5 period that they felt was unreasonable?</p> <p>6 A. Maybe just a couple.</p> <p>7 Q. And do you remember who those people were?</p> <p>8 A. Just Catherine Lang was one of them. I can't</p> <p>9 -- I don't remember her name. There was another person</p> <p>10 that worked there that I heard that a lot from.</p> <p>11 Q. And did anyone ever complain directly to you,</p> <p>12 that you haven't talked about yet, that they felt that</p> <p>13 they were having to wait too long to leave the building</p> <p>14 for their lunch break?</p> <p>15 A. At times, yes.</p> <p>16 Q. And how many people do you think complained</p> <p>17 about that?</p> <p>18 A. It just -- the same two.</p> <p>19 Q. That would be Catherine --</p> <p>20 A. Catherine. There was another woman there, I</p> <p>21 don't remember her name.</p> <p>22 Q. And did you believe them when they told you</p> <p>23 that they had been waiting for what they believed was an</p> <p>24 unreasonable amount of time to get out of the store at</p> <p>25 their lunch break?</p>	<p>1 A. I just always thought that we can make the</p> <p>2 effort that I was making to get the back door. I don't</p> <p>3 think they were being neglectful or --</p> <p>4 Q. You felt they should respond more timely to</p> <p>5 requests to do the bag checks?</p> <p>6 A. At times, yeah.</p> <p>7 Q. When you reported the complaints on these few</p> <p>8 occasions to Tin Hua about the entrance and exit issues</p> <p>9 raised by these sales associates, did he respond in any</p> <p>10 way?</p> <p>11 A. He did.</p> <p>12 Q. And what did he respond?</p> <p>13 A. He would ask Valerie Harrison and Theresa Cruz</p> <p>14 to get more involved in the process that goes on with</p> <p>15 the back door.</p> <p>16 Q. Did he tell you that he would speak to Valerie</p> <p>17 Harrison and Theresa Cruz about responding to the back</p> <p>18 door?</p> <p>19 A. No. We would discuss it in meetings.</p> <p>20 Q. In how many meetings, where there were other</p> <p>21 managers in the meeting, was the issue of entering and</p> <p>22 exiting the store discussed?</p> <p>23 A. In the time that I was there, it was discussed</p> <p>24 in huge detail probably more than three times in a</p> <p>25 meeting.</p>
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<p>1 Q. Did you come to believe that the response time 2 of managers, other than yourself, was too slow to 3 requests to have bag checks performed? 4 MR. GOINES: Objection. Vague. 5 THE WITNESS: To get bag checks? I believe 6 that people got checked pretty -- I mean, in a pretty 7 reasonable time. 8 Q. BY MR. KITCHIN: The meetings in which the bag 9 check procedure was discussed, I think you said in 10 detail, did anyone suggest any different procedure to 11 follow to expedite the exit by sales associates? 12 A. I think we changed -- we changed the policy a 13 bit, where our stock supervisor would have access -- or 14 could check them out. Again, it was a complaint that 15 kept coming up. So that was one of the actions we took, 16 we gave Chris the authority to check people in and out. 17 Q. How late did Chris work on most days? 18 A. Till five. 19 Q. What time did sales associates generally leave 20 the building? 21 A. Six, 6:15, 6:30. 22 Q. So he wasn't there to check them out at the end 23 of their shift, but was there to check them out during 24 lunch breaks? 25 A. Yeah.</p>	<p>1 A. Not sitting on the floor, but waiting by the 2 door. 3 Q. And any of those times you came and there was 4 more than one person waiting by the door, did any of 5 the sales associates tell you how long they had been 6 waiting? 7 A. Sometimes they would say they've been waiting 8 there forever, or they've been back there, I mean, not 9 specific times, but. When I was downstairs, it would 10 literally take 15, 20 minutes to close out the 11 department. So if anybody was working in any other 12 department and, say, they left at six, and I'm closing 13 out drawers or I'm doing management functions or money 14 functions, it would take about 15 minutes for me to go 15 from the back -- or from the department to the back. 16 So if they ever waited, it would have had to 17 have been maybe 15 minutes -- 15 to 20 minutes, if, in 18 fact, they were waiting that long. Because they would 19 have to get their coat, clock out, get their bag. 20 So many a time, it just seemed exaggerated, the 21 times that they said that they were waiting back there. 22 I mean, it became so that it just -- it was just not -- 23 it didn't seem right that they had been waiting there 24 the time that they said. And it was always the same 25 people over, and over, and over again.</p>
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<p>1 Q. Was there any suggestion of any change in 2 procedure that dealt specifically with expediting the 3 exit of the building at the end of a sales associate's 4 work shift? 5 A. We tried so many different things. I mean, we 6 opened up the Home department for people to come back 7 in, if they were coming back from their lunches, so they 8 wouldn't have to wait. On Sundays, we let people go 9 through Polo Sport, which is -- because the rest of the 10 mall is closed. So, I mean, there were many ways to 11 enter and leave the building. 12 Q. But were there any proposed changes to the 13 practices or policies that related specifically to 14 exiting at the end of a work shift at six, 6:15, or 15 6:30? 16 A. No. Because we would have the managers back 17 there. I mean, all three managers, at any different 18 day, would be back there at the end of the night. 19 Q. At the end of a shift, did you ever go back to 20 the back door and find more than one person waiting to 21 get out of the store? 22 A. At the end of a shift? Sometimes. 23 Q. And sometimes did you go back there and there 24 were people in the back of the hallway, sitting on the 25 floor, waiting for a manager to come in?</p>	<p>1 So, I mean, after awhile, it was just -- I 2 didn't believe that they had been waiting back there for 3 so long, or as long as they thought they were. 4 Q. Did anyone ever compliment you by comparing 5 your quick response time to get to the back door to 6 other managers' response time? 7 A. Yes. 8 Q. And who did they compare you to? 9 A. It depends on who it was. 10 Q. Did any sales associates tell you that certain 11 managers took a long time to let them out at the end of 12 their shift? 13 A. Yes. 14 Q. And which managers were referenced? 15 A. Valerie, sometimes. 16 Q. Any other managers that complaints were made 17 about relating to letting associates out at the end of 18 their shifts? 19 A. Sometimes Theresa. But I'm sure there were 20 complaints about me when I didn't get their quick 21 enough, so. 22 Q. Do you remember anyone specifically who said 23 something to the effect of, "You always come quick. 24 Everyone else is slow"? 25 A. Yeah. Or, yes.</p>
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<p>1 particular would think that they were not required to 2 clock in and out. 3 Q. And how do you -- 4 A. Because of their status, or because how much 5 they sold, or because they were in a salary bracket, or 6 whatever it is that they might have been thinking. 7 Q. Did you specifically talk to some sales 8 associates in any of your departments about not clocking 9 in? 10 A. We've had conversations surrounding that 11 absolutely everybody should clock in, including the 12 senior sellers, including the managers, I mean, 13 including everyone. 14 Q. To your knowledge, were any sales associates 15 ever reprimanded or spoken to about not clocking in? 16 A. Yes. 17 Q. And who do you recall was reprimanded or spoken 18 to about not clocking in? 19 A. Pretty much everyone I've worked with in that 20 store, pretty much, at least once, for forgetting to 21 clock back from their break or forgetting to clock out 22 when they leave, so. 23 Q. Did you ever learn that any sales associate was 24 reprimanded or addressed because they were not clocking 25 in, in order to manipulate the records to show that they</p>	<p>1 finishing my questions. 2 A. Right. 3 Q. Like in a conversation, we can guess what a 4 person is going to say -- 5 A. Okay. 6 Q. -- but for the record, we need to do that. 7 A. Yes. 8 Q. So this form or a form like it was in existence 9 when you first started at Polo? 10 A. Yes. 11 Q. And was this form being used when you first 12 started at Polo? 13 A. No, not -- no. 14 Q. How do you know that this form was in existence 15 when you first started at Polo? 16 A. Because every time I made an adjustment on 17 something, we would keep a record of it, whether it was 18 initialing what we had done -- I don't know if it was 19 that elaborate, but maybe I'm just assuming that we had 20 something in place because it just seems sensible to 21 have that. I know that we got a little bit more strict 22 about the punches right before I was leaving. 23 Q. I'm going to show you what we've previously 24 marked as Exhibit 23 -- 25 A. Okay.</p>
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<p>1 were selling more per time period than they really were? 2 A. No. 3 Q. Did you ever hear that that was happening? 4 A. No. I mean, yes. 5 Q. And did you ever hear the name of a specific 6 individual that someone believed was doing that? 7 A. Yes. 8 Q. And who was that? 9 A. Justin. 10 Q. Anyone else? 11 A. No. I personally never believed that that was 12 happening. Like I said, I never witnessed it, I never 13 -- I just assumed that people were maybe unhappy with 14 him because he was such a great seller. I never thought 15 anything twice about it. 16 Q. Was this time clock correction form that's 17 Exhibit 20 rolled out after this lawsuit was filed, if 18 you know? 19 A. It was always in place. I don't believe that 20 we used it as much as we should have, but. 21 Q. So from the time you started this -- 22 A. That form was existing, yes. 23 Q. So this form was -- 24 A. I don't know if it's the same one, but -- 25 Q. I'm sorry. We have to make sure that I'm</p>	<p>1 Q. -- and ask you whether you've seen a form in 2 this format prior to just seeing it now. 3 A. I mean, I have seen something like this. I'm 4 trying to figure out if it's the commission report that 5 we would get. Yes. 6 MR. KITCHIN: Could we go off the record for a 7 moment? 8 MR. GOINES: Sure. 9 (Brief recess taken.) 10 Q. BY MR. KITCHIN: Were you ever present during 11 which issues relating to exiting and/or entering the 12 building were discussed when Theresa Cruz was there? 13 A. Yes. 14 Q. And on how many occasions were the issues 15 relating to exiting and entering the building discussed 16 when Theresa Cruz was present? 17 A. When you say "discussed," I mean, people would 18 say, "I've waited back here for a long time," and it 19 could be any manager. I mean, we all heard the 20 complaints pretty often. 21 Q. Well, I'm specifically asking whether you 22 recall, you know, any discussion, whether it was a 23 complaint by an employee, or in a manager meeting, any 24 kind of discussion at all, relating to entering and 25 exiting the building in which Theresa Cruz was present.</p>
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<p>1 A. Yes.</p> <p>2 Q. And was that on more than one occasion?</p> <p>3 A. I mean, I don't remember. We -- that was a</p> <p>4 huge topic. We talked about it quite bit, actually,</p> <p>5 because there were so many complaints that would come</p> <p>6 about, so.</p> <p>7 Q. Same question with respect to Valerie Harrison.</p> <p>8 Were there times where you actually observed a</p> <p>9 discussion or a comment being made about exiting and</p> <p>10 entering the building when Valerie Harrison was present?</p> <p>11 A. Yes.</p> <p>12 Q. On more than one occasion?</p> <p>13 A. Possibly.</p> <p>14 Q. While you were working at Polo, were sales</p> <p>15 associates entitled, under Polo's policy, to receive two</p> <p>16 15-minute breaks each day that they worked a full-time</p> <p>17 shift?</p> <p>18 A. Yes.</p> <p>19 Q. So they were entitled to a morning 15-minute --</p> <p>20 A. Mm-hm. A lunch break.</p> <p>21 Q. -- an hour lunch, and then an afternoon</p> <p>22 15-minute break?</p> <p>23 A. Yes.</p> <p>24 Q. Did all of the sales associates that you worked</p> <p>25 with in your departments, to your knowledge, take all of</p>	<p>1 A. We had a daily break sheet, where we broke down</p> <p>2 when people took their meal breaks.</p> <p>3 Q. Was it just the meal breaks on the daily sheet?</p> <p>4 A. The meal breaks. And when I worked in Men's,</p> <p>5 which is a larger department, people would sign up for</p> <p>6 15s, as well. Because they'd like to go like at a</p> <p>7 certain time, like at 11, or they'd like to go at four</p> <p>8 in the afternoon, so they would sign up for breaks.</p> <p>9 Q. Was that a form that was kept on a computer</p> <p>10 or --</p> <p>11 A. Yes.</p> <p>12 Q. Do you remember if it was an Excel file or --</p> <p>13 A. It was a Word document, very simple.</p> <p>14 Q. Did it have a table with columns and rows?</p> <p>15 A. The first one did, and the second one didn't.</p> <p>16 Because we liked to update the sheet, because it also</p> <p>17 had other information on there. It had like daily goals</p> <p>18 or customers that were coming in.</p> <p>19 Q. So when you were in the Men's department, you</p> <p>20 used --</p> <p>21 A. I think that was Excel, because -- and when we</p> <p>22 were in Ladies', it was a Word document, because it was</p> <p>23 more -- just more information on it.</p> <p>24 Q. And both in the Ladies' department and in the</p> <p>25 Men's department, break times were pencilled in?</p>
<p style="text-align: right;">Page 142</p>	<p style="text-align: right;">Page 144</p>
<p>1 their rest breaks?</p> <p>2 A. Yes.</p> <p>3 Q. Were there any sales associates that you worked</p> <p>4 specifically with that you were aware were not taking</p> <p>5 either their morning or afternoon break, so that they</p> <p>6 could sell more?</p> <p>7 A. The only time that someone might not take their</p> <p>8 break is if they had an appointment.</p> <p>9 Q. An appointment with a customer?</p> <p>10 A. Yes.</p> <p>11 Q. Were you aware of times where a person wasn't</p> <p>12 able to take one of their 15-minute breaks because of an</p> <p>13 appointment with a customer?</p> <p>14 A. Yes.</p> <p>15 Q. Do you remember specific instances of that or</p> <p>16 do you just have a general recollection of that?</p> <p>17 A. I can think of maybe one instance where someone</p> <p>18 maybe didn't take their breaks. I mean, in the</p> <p>19 departments I worked in, breaks were taken. I mean, I</p> <p>20 can't think of one person that did not take their</p> <p>21 breaks.</p> <p>22 Q. Did you, as assistant manager key holder, or</p> <p>23 manager, keep any kind of written notes as to when a</p> <p>24 person within your department would be taking their rest</p> <p>25 breaks?</p> <p style="text-align: right;">Page 143</p>	<p>1 A. Not so much the breaks, but the lunch breaks.</p> <p>2 Q. But in the Men's department, people would sign</p> <p>3 up for specific allotments of 15-minute breaks?</p> <p>4 A. At times. It wasn't practiced all the time;</p> <p>5 but at times when people had something to do, they would</p> <p>6 say, "I need to run out and," you know, "do something on</p> <p>7 my break," so we would write it down. But it wasn't --</p> <p>8 sometimes you had appointments, so it was very hard to</p> <p>9 gauge when you could go on your 15.</p> <p>10 Q. Was it Polo's policy, during the whole time</p> <p>11 that you worked there, that employees were not permitted</p> <p>12 to leave the building during their 15-minute breaks?</p> <p>13 A. No. You can leave the building whenever.</p> <p>14 Q. Did you ever hear any complaints that were</p> <p>15 being made by any sales associates, in any department at</p> <p>16 Polo San Francisco, that they weren't taking their</p> <p>17 15-minute rest breaks?</p> <p>18 A. No.</p> <p>19 Q. In any management meetings that you</p> <p>20 participated in, was rest breaks, as a problem area,</p> <p>21 ever discussed?</p> <p>22 A. No. Just the time clock situation, where</p> <p>23 people would forget to come in and out. We would just</p> <p>24 assume that there could be an issue, but --</p> <p>25 Q. With respect to rest breaks, employees didn't</p> <p style="text-align: right;">Page 145</p>

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1 CERTIFICATION OF DEPOSITION OFFICER
2

3 I, MARY E. GARLAND, duly authorized to administer
4 oaths pursuant to Section 2093(b) of the California Code
5 of Civil Procedure, do hereby certify that the witness
6 in the foregoing deposition was duly sworn by me to
7 testify to the truth, the whole truth and nothing but
8 the truth in the within-entitled cause; that said
9 deposition was taken at the time and place therein
10 stated; that the testimony of said witness was
11 thereafter transcribed by means of computer-aided

12 ~~transcription under my direction; that the foregoing is~~
13 a full, complete and true record of said testimony; and
14 that the witness was given an opportunity to read and
15 correct said deposition and to subscribe to the same.

16 I further certify that I am not of counsel or
17 attorney for either or any of the parties in the
18 foregoing deposition and caption named, nor in any way
19 interested in the outcome of the cause named in said
20 caption.

21 Executed November 26, 2007, at San Francisco,
22 California.

23 
24 MARY E. GARLAND, CSR 4721
25